NUMBER 13-18-00475-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

JASON ROSALEZ, **Appellant,**

v.

THE STATE OF TEXAS, **Appellee.**

On appeal from the County Court of San Patricio County, Texas.

MEMORANDUM OPINION

Before Justices Benavides, Perkes, and Tijerina
Memorandum Opinion by Justice Tijerina

Appellant Jason Rosalez appeals his conviction of harassment. TEX. PENAL CODE ANN.§ 42.07(a)(2). Rosalez was sentenced to confinement for 180 days with a $300 fine. By two issues, which we have reorganized and renumbered, Rosalez contends that the evidence is insufficient, and he was entitled to a mistrial. We affirm.

I. SUFFICIENCY OF THE EVIDENCE

By his first issue, Rosalez contends that the evidence is insufficient to support his conviction because § 42.07(a)(2) is unconstitutionally vague. By a sub-issue to his first issue, Rosalez contends that the evidence is insufficient to support the jury's finding that he committed the charged offense.

A. Facial Challenge to § 42.07(a)(2)

First, Rosalez argues that the evidence is insufficient because the use of the term "alarm" in § 42.07(a)(2) of the penal code is unconstitutionally vague.

In *Karenev v. State*, the Texas Court of Criminal Appeals explained that "[s]tatutes are presumed to be constitutional until it is determined otherwise" and that "the State and the trial court should not be required to anticipate that a statute may later be held to be unconstitutional" on appeal. 281 S.W.3d 428, 434 (Tex. Crim. App. 2009). The *Karenev* court found that a challenge to the facial constitutionality of a statute is a forfeitable right under the *Marin* framework. *Id*. (citing *Marin v. State*, 851 S.W.2d 275, 279–80 (Tex. Crim. App. 1993) (en banc) (establishing that certain rights will be forfeited if not invoked by the appellant at trial)). Thus, an appellant "may not raise for the first time on appeal a facial challenge to the constitutionality of a statute." *Id*.

Here, Rosalez requested a directed verdict on the basis that the evidence was insufficient to support the State's case. Specifically, in support of his motion for directed verdict, Rosalez stated, "I don't believe the State has proven all of the elements beyond a reasonable doubt." Rosalez did not argue that the statute was impermissibly vague due to the term "alarm", unconstitutional, or make a facial challenge to the statute on any basis. Moreover, Rosalez did not file a motion for new trial. Thus, Rosalez may not raise

his facial challenge to the constitutionality of § 42.07(a)(2) for the first time on appeal. *See id*.; *see also State v. Ross*, 573 S.W.3d 817, 822 (Tex. Crim. App. 2019) ("construing 'alarm' to mean 'strik[ing] with fear,' particularly in a sudden or exciting manner" which "makes that term both comprehensible to the ordinary person and evenhandedly enforceable"). We overrule Rosalez's first issue.

B. Identity

Next, by a sub-issue to his first issue, Rosalez argues that the evidence was insufficient because the State failed to prove that he sent the harassing text messages.

1. Standard of Review and Applicable Law

In determining the sufficiency of the evidence, we consider all the evidence in the light most favorable to the verdict and determine whether a rational fact finder could have found the essential elements of the crime beyond a reasonable doubt based on the evidence and reasonable inferences from that evidence. *Whatley v. State*, 445 S.W.3d 159, 166 (Tex. Crim. App. 2014); *Brooks v. State*, 323 S.W.3d 893, 898–99 (Tex. Crim. App. 2010). The fact finder is the exclusive judge of the facts, the credibility of witnesses, and the weight to be given their testimony. *Brooks*, 323 S.W.3d at 899. We resolve any evidentiary inconsistencies in favor of the judgment. *Id.*

Sufficiency of the evidence is measured by the elements of the offense as defined by a hypothetically correct jury charge. *Villarreal v. State*, 286 S.W.3d 321, 327 (Tex. Crim. App. 2009); *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997). "Such a charge is one that accurately sets out the law, is authorized by the indictment, does not unnecessarily increase the State's burden of proof or unnecessarily restrict the State's theories of liability, and adequately describes the particular offense for which the

defendant was tried." *Villarreal*, 286 S.W.3d at 327; *see Malik*, 953 S.W.2d at 240.

As charged in this case, a person commits the offense of harassment "if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person . . . sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another." TEX. PENAL CODE ANN.§ 42.07(a)(2). "'Electronic communication' means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system." *Id*.§ 42.07(b)(1). The term electronic communication includes, among other things, "a communication initiated through the use of . . . a cellular or other type of telephone . . . [or] text message." *Id*.§ 42.07(b)(1)(A).

2. Pertinent Facts

Selena Burciaga testified that Rosalez is her ex-husband. Burciaga stated that after the couple "split up," things between the couple went "[s]outh." Burciaga said that on October 3, 2017, Rosalez sent her "some disturbing text messages after 1:00 in the morning that continued until almost 4:30 in the morning." Burciaga testified that the messages upset and scared her as they were random and threatening. The trial court admitted State's Exhibit 1, a printout of the text messages. Burciaga described the messages to the jury. She stated that one of the messages scared her because it said, "So payback, I met some shady characters at AA." Burciaga explained that she was scared because Rosalez attends AA meetings, and he said he met "shady characters" and used the term "payback." Rosalez then informed Burciaga that her new husband,

Joe,[1] had "cussed out" Rosalez's mother and that he had a video and audio recording of the altercation. Then, according to Burciaga, at 1:59 a.m. she received the following text, "Gonna fuck with your family," which made her feel threatened and scared. Burciaga stated that the next message said, "Graveyard first." The next message stated, "Arkansas amber." Burciaga explained that Joe's ex-wife was named Amber. The next message stated, "Tell Joe I am coming." Burciaga testified that she felt threatened by this message. The next message said, "And I won't scream from the streets." Burciaga explained that Joe went to Rosalez's house and asked him to come outside; however, instead, Rosalez's mother came out and told Joe "some deplorable things" about Burciaga. According to Burciaga, at this point, while outside the home, Joe then "cussed the lady out." Burciaga said that she had "no doubt" that Rosalez sent the messages. Burciaga stated that she "had been down this road with [Rosalez] before." Burciaga testified that the phone number belonged to Rosalez.

3. Analysis

Viewing the evidence in the light most favorable to the verdict, the jury could have reasonably found that Rosalez sent the messages to Burciaga based on the evidence that the text messages were sent from Rosalez's phone, related to information that he knew, and were in response to Joe "cussing out" Rosalez's mother, an event that the jury could have reasonably inferred angered Rosalez. *See Whatley*, 445 S.W.3d at 166; *Brooks*, 323 S.W.3d at 898–99. Therefore, we conclude that in this case, a rational fact finder could have found the essential elements of the crime, including identity, beyond a

[1] Joe did not testify, and Burciaga did not state his last name.

reasonable doubt based on the evidence and reasonable inferences from that evidence.[2] *Whatley*, 445 S.W.3d at 166; *Brooks*, 323 S.W.3d at 898–99. We overrule Rosalez's sub-issue to his first issue.

II. MISTRIAL

By his second issue, Rosalez contends that the trial court improperly denied his motion for mistrial because one of the jurors heard information about his reputation.

A. Pertinent Facts

After voir dire was completed and the jury had been selected, the State informed the trial court and Rosalez that a juror had said that Rosalez had harassed another person prior to his trial. The trial court held a hearing where Dora Camarrillo who had been on the venire during voir dire testified; however, she had not been selected to serve on the jury for Rosalez's trial. Camarrillo testified that another woman also on the venire had discussed Rosalez's alleged prior conduct of harassment; Camarrillo did not know the woman's name. However, she provided a physical description of the woman and informed the trial court where the woman had been sitting during the voir dire. Camarrillo stated that the woman told her that another unknown woman on the venire "told her that she knew [Rosalez], that she subbed with him at school, and that she knew him and that she knew that that's the type of person that he was to harass girls." Camarillo stated, "And I just—my conscience says I have to say something, because I don't think this man is going to get a fair trial if she knows some preinformation on him already."

[2] Rosalez does not challenge any of the other elements of harassment. *See* TEX. PENAL CODE ANN. § 42.07(a)(2).

The trial court stated it was important that an inquiry be conducted "[b]ecause she may say I heard it, but I didn't think anything of it, or I'm not going to hold it against the defendant, or she may say, yeah, I heard it, and it's going to affect my judgment. I mean I don't know what she's going to say, but we have to inquire." The State determined the woman was Heaven Villarreal, and she testified.

Villarreal stated that she told Camarrillo that Rosalez "looked familiar," she thought that she had seen him before, and that "the lady next to [her] said that he was like that." Villarreal said, "[T]hat's all I said." The trial court asked, "She said what?" Villarreal replied, "She said—the lady next to me had said that he was like that." The following occurred:

> [Trial Court]: How does that affect you?
>
> [Villarreal]: How does it affect me?
>
> [Trial Court]: You—can you be fair in this—this jury?
>
> [Villarreal]: Uh, yeah, I mean I believe so.
>
> [Trial Court]: Okay. Let me—let me ask the attorneys to ask questions. State?
>
> [The State]: Obviously, that comment had some effect on you one way or the other. Okay? We're just trying to make sure everybody gets a fair trial, and I don't think it's fair for me to have a juror whose mind has already been given some information about something. Do you see what I mean?
>
> [Villarreal]: Yeah.
>
> [Trial Court]: And you're at that point now, right? You know something—
>
> [Villarreal]: No, no, because I don't know nothing. I don't know anything about it.
>
> [The State]: But you do—somebody did make that comment to you, and it's in your head, and you're in a different place now than you would have been if you never would have heard that comment, right?

[Villarreal]: Well, no, because I don't—I didn't take it no way. I didn't—I didn't put it in my head.

[The State]: Okay. But you have information that nobody else has on the jury already?

[Villarreal]: No. Just that remark.

. . . .

[The State]: Okay. So you're in a position where you know information that the other jurors don't know.

[Villarreal]: Okay.

[The State]: Okay? So I'm trying to find out whether you can take that information and not consider it any way at all?

[Villarreal]: Oh, of course, yes.

. . . .

[The State]: Okay. Now, in your deliberations, you know, and I know [Rosalez's trial counsel] may ask you something similar, but if it's close, if you think I'm close to meeting my burden, but you're not sure, but then you heard that comment, well, then you would say, oh yeah, of course he's guilty because you're factoring that comment into the evidence?

[Villarreal]: Yeah.

[The State]: So that—that's a very valid concern, right?

. . . .

[Villarreal]: Yes.

. . . .

[Rosalez]: Now, you said that you were told that he was a—that he was like that, he was a serial harasser.[3] This is a harassment case. You're on the jury to determine whether he's guilty of this or not, and that is our concern as a court for a fair trial, is that

[3] Villarreal did not testify that she was told that Rosalez was a "serial harasser."

you know information that you didn't—before you sat there today, you didn't know this information, right?

[Villarreal]: No.

[Rosalez]: Right. And it's important that now you know—or you were told this other information before then, because if you would have heard before—recognized him, for example, and the community, some said, oh, yeah, he's a serial harasser—that's the words that were given to us, that's what the lady told you, right? The lady told you—said he was a serial harasser?

[Villarreal]: No, she just said, yeah, he's like that.

[Rosalez]: That he's like that? And they—

[Villarreal]: Yeah, but she didn't say nothing else after that. She didn't say what he was like or anything.

. . . .

[Rosalez]: Okay. So—and now you're sitting on the jury, and you're the one that's judging this guy, and you have information from somebody else about his either past or reputation that you didn't know before?

[Villarreal]: Uh-huh (Indicating an affirmative response).

[Rosalez]: Right?

[Villarreal]: Yes, sir.

. . . .

[Rosalez]: But today, standing here right now, you know information about whatever, his prior bad acts, or past, whatever, that you didn't know beforehand, that was given to you by somebody else on the jury—or on the panel, right?

[Villarreal]: (Juror nods head affirmatively).

[Rosalez]: Even though the judge ordered y'all not to talk about the case, is that right, the lady told you that?

[Villarreal]: Yes.

. . . .

[Rosalez]: Right? So this is the concern, is that you're on—you're one of six people, okay? And you haven't heard any evidence at all, zero. You know, right now you would have to say innocent, because you don't know any evidence, right?

[Villarreal]: Yes.

[Rosalez]: However, you do know some kind of reputation evidence now, and you know something about his prior past told to you by somebody else. That's correct, right?

[Villarreal]: Yes, sir.

[Rosalez]: Okay. And you didn't know this before?

[Villarreal]: No.

[Rosalez]: Okay. And you—common sense, it does affect you, because you even told us it doesn't feel right, and that's why you're here today?[4] And that's why you told that other girl, right?

[Villarreal]: Yes.

[Trial Court]: But the bottom line is can you put it aside or not?

[Villarreal]: I can.

[Trial Court]: You can?

[Villarreal]: Yes.

[Trial Court]: Okay. And you're sure about that?

[Villarreal]: Yes.

The trial court remarked, "Gentlemen, if this juror had said this bothers me, I can't be fair, I would be excusing her in a heartbeat. She has said that it's not going to bother her." The State accused Villarreal of "swallow[ing] the poison pill" and claimed "when I

[4] Villarreal had not testified that "it doesn't feel right" and "that's why [she] was here today."

asked her would that play any part in her deliberations if I was close to meeting my burden, then you would factor that information in, and she said yes, she would." The State said, "I think she's gone." Rosalez responded as follows:

> If the panel's poisoned, Judge—she actually made it onto the panel. She felt concern enough about it that she told somebody else, because she was afraid to come tell us,[5] and that other person came and told us. And that's how concerned that she felt. It's in her head like the—like the government—like the State has stated, it's in her head, and it's going to remain in her head. It's a harassment case. It's going to be the complaining witness's word against him, and he's not going to take the stand. Now, it's evidence of prior bad acts. It's evidence of prior bad acts that wouldn't come in to trial anyway, and she knows that, because that's a prior bad act that he's—that's he's done it before. Furthermore, it's reputation evidence that wouldn't come in anyway, and she knows that already. So she has evidence in her head already before any type of formal evidence has been placed on the record. So that makes it unfair. We want to be fair, we want to make sure that all the Is are dotted and the Ts are crossed, and that's what this whole system is about, is honesty, and she—and they're honest. They said this is information.

The trial court asked if the proper remedy would be to strike Villarreal from the jury and proceed with five jurors or if Rosalez wanted a mistrial. Rosalez requested a mistrial,[6] which the trial court denied.

B. Standard of Review

"A mistrial is an appropriate remedy in 'extreme circumstances' for a narrow class of highly prejudicial and incurable errors." *Ocon v. State*, 284 S.W.3d 880, 884 (Tex. Crim. App. 2009). We review a trial court's decision to grant or deny a motion for mistrial for an abuse of discretion. *Id*. The trial court abuses its discretion if it fails to follow guiding rules and principles or if its acts are arbitrary or unreasonable. *Montgomery v. State*, 810

[5] There is nothing in the record establishing that Villarreal told Carramillo about the statement because she was "scared to tell" the trial court, the State, or Rosalez.

[6] The State agreed with Rosalez that the proper remedy would be to declare a mistrial. On appeal, however, the State argues that the trial court had discretion to deny Rosalez's motion for mistrial.

S.W.2d 372, 380 (Tex. Crim. App. 1990). "Because it is an extreme remedy, a mistrial should be granted 'only when residual prejudice remains' after less drastic alternatives are explored." *Ocon*, 284 S.W.3d at 884–85. Lesser remedies include questioning a juror "about the extent of any prejudice" or providing the jury an instruction to only consider the evidence presented at trial. *Id*.

C. Discussion

First, Rosalez argues that the trial court should have granted him a mistrial because Villarreal violated article 36.22 of the Texas Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. art. 36.22 (setting out, in pertinent part, that "[n]o person shall be permitted to converse with a juror about the case on trial except in the presence and by the permission of the court"). Next, Rosalez argues that he was entitled to a mistrial because Villarreal "clearly showed she would take information she had received into account in deliberations, showing her bias and prejudice." We disagree.[7]

A jury must keep an open mind as to the ultimate question before it until all the evidence has been received. *Quinn v. State*, 958 S.W.2d 395, 403 (Tex. Crim. App. 1997) (noting that "it defies common sense and human nature to require that a juror have no impressions or opinions until the judge sends the jury to deliberations"). Juror misconduct may occur if a sitting juror makes statements outside of deliberations that indicate bias or partiality that prohibits the defendant from receiving a fair and impartial trial. *Granados v.*

[7] Rosalez never objected to Villarreal's presence on the jury due to a violation of article 36.22. *See Trinidad v. State*, 312 S.W.3d 23, 29 (Tex. Crim. App. 2010) (explaining that the appellants procedurally defaulted their article 36.22 arguments by failing to object on that basis). Nonetheless, we will address the issue as the analysis is the same for an article 36.22 violation and juror bias or prejudice. *See Ocon v. State*, 284 S.W.3d 880, 887 (Tex. Crim. App. 2009) (establishing that the paramount issue in our analysis under article 36.22 "is whether Appellant received a fair and impartial trial, and therefore the analysis must focus on whether the juror was biased as a result of the improper conversation").

State, 85 S.W.3d 217, 235 (Tex. Crim. App. 2002). "The primary goal of Article 36.22 is to insulate jurors from outside influence." *Ocon*, 284 S.W.3d at 884 (citing *Chambliss v. State*, 647 S.W.2d 257, 266 (Tex. Crim. App. 1983)). "Therefore, if a violation is shown, the effectiveness of possible remedies will be determined in part by whether the conversation influenced the juror." *Id*. Our analysis under article 36.22 requires that once the outside conversation has been shown, the State must rebut a presumption of harm to the defendant by establishing that the juror is not biased or partial. *See id*. at 887.

A trial court should conduct an inquiry to determine the juror's intent when making statements that raise a question as to whether the juror is biased. *Granados*, 85 S.W.3d at 236; *see Ocon*, 284 S.W.3d at 886 (explaining that although not required, an inquiry of a juror's statement or conduct "is a helpful tool for measuring the necessity for a mistrial"). If bias is not established as a matter of law, the trial court retains discretion in determining whether a juror is biased, and we review the trial court's decision in the light most favorable to its recorded findings. *Granados*, 85 S.W.3d at 236; *see Anderson v. State*, 633 S.W.2d 851, 853−54 (Tex. Crim. App. [Panel Op.] 1982). Bias exists as a matter of law, if among other things, a prospective juror admits that he is biased for or against a defendant. *Anderson*, 633 S.W.2d at 854. The trial court has discretion to grant a motion for mistrial based on allegations of juror misconduct. *Granados*, 85 S.W.3d at 236.

Rosalez points out that Villarreal responded "Yeah" when the State asked, "Now, in your deliberations, you know, and I know Mr. Waller may ask you something similar, but if it's close, if you think I'm close to meeting my burden, but you're not sure, but then you heard that comment, well, then you would say, oh yeah, of course he's guilty because you're factoring that comment into the evidence." However, Villarreal also said that she

knew “nothing”; she said, “I don’t know anything about [the allegations against Rosalez].” In addition, Villarreal denied that she was told Rosalez was a “serial harasser,” and claimed that she was only told that he was “like that” without further explanation. Moreover, when urged by the State that the comment about Rosalez being “like that” was in her head and that she was “in a different place now than” if she would not have heard the comment, Villarreal replied, “Well, no, because I don’t—I didn’t take it no way. I didn’t—I didn’t put it in my head.” Villarreal also stated that she believed she could be fair and that she could put aside the statement about Rosalez. In addition, the State asked, “So I’m trying to find out whether you can take that information and not consider it any way at all,” and Villarreal replied, “Oh, of course, yes.” Rosalez asked if Villarreal knew “right now you would have to say innocent, because you don’t know any evidence, right,” Villarreal replied, “Yes.”

After hearing Villareal repeatedly denying that she was not impartial, the trial court concluded that Villareal was not biased based on the following evidence: Villarreal’s testimony that she was only told that Rosalez was “like that”; she was not told he was a “serial harasser”; she did not know anything specifically about Rosalez’s past behavior; she would not consider the “like that” comment because she would not put that comment in her head; she stated she could be fair on more than one occasion; she stated she would put aside the comment; she understood that what she heard was not evidence; and she agreed that she was required to find Rosalez not guilty at the time of the inquiry because she had not heard any evidence. All of these statements sufficiently support the trial court’s implicit findings that Villareal was not biased. Villareal never indicated an inability to find for Rosalez if Rosalez proved his case, and she expressed her willingness

to be impartial.

As previously set out, we must defer to the trial court's findings, and we must review the trial court's decision in the light most favorable to its findings. *Granados*, 85 S.W.3d at 236; *see Anderson*, 633 S.W.2d at 853-54. In addition, the trial court was in a better position to determine Villarreal's credibility and demeanor, and it had discretion to reconcile the conflicts in the evidence. *See Quinn*, 958 S.W.2d at 402 ("In giving 'almost total deference' to the trial court's resolution of issues turning upon an evaluation of credibility and demeanor, we in essence view the evidence in the light most favorable to the trial court's findings (or ruling), if there are no pertinent findings."). Therefore, it was within the trial court's discretion to reconcile Villarreal's inconsistent testimony. *See id*. With these standards in mind and based on the evidence before the trial court, and after reviewing the entire record, we conclude the trial court could have, within its discretion, properly found that Villarreal was not biased as a matter of law and that she was impartial. *See Anderson*, 633 S.W.2d at 854 (concluding that the juror was not biased as a matter of law even though the juror "admitted" that she would be "more biased" knowing the victim and several of the State's witnesses and that "'it would be difficult' to treat them as she would a stranger" because she also stated, among other things, that "just because those persons' names appeared as potential witnesses against the appellant would not prevent her from being fair and impartial"). Thus, as it was within the trial court's discretion to reasonably conclude that Villarreal was not biased, we conclude that the presumption of harm, if any, due to an article 36.22 violation was rebutted. *See Ocon*, 284 S.W.3d at 887.

Moreover, the trial court instructed the jury as follows:

> You are charged that it is only from—you are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he may have heard regarding the case from any source other than the witness stand. In deliberating on the case, you must not refer to or discuss any matter or issue not in evidence before you. Neither shall you separate from each other, nor talk with anyone not from your jury. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

On appeal, we presume that the jurors followed the trial court's instructions in the manner presented, unless rebutted by evidence. *Thrift v. State*, 176 S.W.3d 221, 224 (Tex. Crim. App. 2005). Therefore, absent any evidence to the contrary, we must presume that Villarreal followed the trial court's above-stated instructions and did not consider the comment about Rosalez during deliberations.[8] *See Ocon*, 284 S.W.3d at 885 ("Less drastic alternatives include instructing the jury 'to consider as evidence only the testimony and exhibits admitted through witnesses on the stand.'" (quoting *Arizona v. Washington*, 434 U.S. 497, 521–22 (1978) (White, J., dissenting))); *see also Young v. State*, 137 S.W.3d 65, 70 (Tex. Crim. App. 2004) (en banc) (providing that we will not reverse the trial court's judgment if the problem could have been cured by a less drastic alternative including an instruction to disregard). Finally, a trial court abuses its discretion if it "grants a mistrial even though there are less drastic alternatives that will serve to best preserve the accused's right to have his trial completed by a particular tribunal." *Hernandez v. State*, 416 S.W.3d 522, 525 (Tex. App.—Eastland 2013, pet. ref'd) (citing *Hill v. State*, 90 S.W.3d 308, 313 (Tex. Crim. App. 2002)). Accordingly, under these circumstances, we

[8] "The presumption is refutable, but the appellant must rebut the presumption by pointing to evidence that the jury failed to follow the trial court's instructions." *Thrift v. State*, 176 S.W.3d 221, 224 (Tex. Crim. App. 2005). Rosalez has not pointed to anything in the record, and we find nothing, indicating that Villarreal did not follow the instruction.

cannot conclude that the trial court abused its discretion by denying Rosalez's motion for mistrial. We overrule Rosalez's second issue.

III. CONCLUSION

We affirm the trial court's judgment.

JAIME TIJERINA,
Justice

Do not publish.
TEX. R. APP. P. 47.2(b).

Delivered and filed the
21st day of May, 2020.