

**IN THE 171st JUDICIAL DISTRICT COURT
OF EL PASO COUNTY TEXAS**

THE STATE OF TEXAS	§	
	§	
vs.	§	CAUSE NO. 20240D02365
	§	
GABRIELA CASTELLANO,	§	
Defendant.	§	

MOTION TO QUASH INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Gabriela Castellano, Defendant, by and through her attorney, Felix Valenzuela, and files this, Motion to Quash Indictment and in support thereof, would respectfully show unto the Court the following:

Ms. Castellano is charged in Count One with retaliation against a school district employee due to the employee’s position as a public servant, in violation of Texas Penal Code § 36.06. Specifically, it is alleged that she “threatened to harm another” by “exerting undue influence resulting in the interference of the daily operations of Bill Sybert School in retaliation for or on account of the service or status of Bill Sybert School Principal, Gabriela Elliot as a public servant.”

Count Two of the indictment makes a similar accusation, apparently charging Ms. Castellano with obstruction, also under Texas Penal Code § 36.06. Specifically, it alleges that Ms. Castellano “threatened to harm another” by “exerting undue influence resulting in the interference of the daily operations of Bill Sybert School, to prevent or delay the service Bill Sybert School Principal, Gabriela Elliot as a public servant.”

The basic terms of § 36.06 of the Texas Penal Code make it a criminal offense to harm or threaten to harm another person when that harm or threatened harm is for the purpose of retaliation against a public servant (§ 36.06(a)(1)) or obstructing the public servant (§ 36.06(a)(2)). The phrase “exerting undue influence” is not part of the statute. The term “harm” is not defined in the statute, however, it is defined in the general definitions section of the Penal Code as “anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected is interested.” Texas Penal Code § 1.07(a)(25).

The indictment fails to state an offense because instead of alleging a way in which Ms. Castellano might have harmed or threatened to harm a person, it merely alleges that she exerted undue influence on someone, which is not conduct punishable by any penal statute. The omission from the indictment is not a technicality or a typographical issue, but a fundamental, insurmountable issue: The indictment does not allege an offense.

The Texas constitution requires that an indictment allege that (1) a person (2) committed an offense, and without both of those elements, the charging instrument is not an indictment. *Teal v. State*, 230 S.W.3d 172, 179 (Tex.Crim.App.2007). The proper test to determine if a charging instrument alleges “an offense” is whether the allegations in it are clear enough that one can identify the alleged offense. *Id.* at 180. It is not required that the indictment include every element of the offense or every detail of the offense. However, it is required to put a defendant on notice of what conduct is alleged to be a criminal violation. In this case, the indictment specifies conduct that simply is not a criminal violation.

The definition of “harm” in § 1.07(a)(25) is consistent with a common

understanding of the term “harm,” which is defined by Websters as “physical or mental damage: injury.” *Merriam-webster.com*. The exertion of undue influence is not included in any definition of “harm,” nor could it logically be considered a form of harm because it could not be presumed, nor would it even be likely, that being on the receiving end of undue influence would cause physical or mental damage.

Extensive discovery and investigation has been conducted and made available in this case. Defense counsel reviewed it all to determine whether the discovery would put the defense on notice as to what conduct was alleged to have been a violation of the statute. If so, the flaw in the indictment could potentially be corrected through amendment.

The discovery, however, revealed no conduct on the part of Ms. Castellano that would fall under the language of the violations alleged (or any other criminal violations, for that matter). Communications with the attorneys for the State did not enlighten the defense. This case cannot proceed when the defense cannot discern what conduct is alleged to have been criminal.

Because the indictment does not specify any conduct that would constitute “harm” or “threatening to harm” and instead specifies conduct that is not criminal, the indictment should be quashed. Because the extensive discovery demonstrates that the lack of criminal allegations in the indictment cannot be cured, this case should be dismissed with prejudice.

This Motion is not made for the purposes of delay, but so that justice may be served.

Wherefore, premises considered, Defendant and the State request this Honorable

Court grant this Motion to Quash Indictment, under the provisions of Chapter 29 of the Texas Code of Criminal Procedure, based on consent of the parties, or after a hearing is had on said Motion; and that the above-entitled and numbered Cause be continued and reset for a later date.

Respectfully submitted,

Valenzuela Law Firm
701 Magoffin Avenue
El Paso, Texas 79901
(915) 209-2719
(915) 493-2404 fax

By: /s/ Felix Valenzuela
State Bar No. 24076745
felix@valenzuela-law.com

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on January 26, 2026, a true and correct copy of the foregoing instrument has been served on the District Attorney's Office located at 500 E. San Antonio, El Paso, Texas 79901 via electronic filing.

/s/ Felix Valenzuela

**IN THE 171st JUDICIAL DISTRICT COURT
OF EL PASO COUNTY TEXAS**

THE STATE OF TEXAS

vs.

**GABRIELA CASTELLANO,
Defendant.**

§
§
§
§
§
§

CAUSE NO. 20240D02365

ORDER ON MOTION TO QUASH INDICTMENT

On this day, the Court considered the Motion to Quash Indictment. After due consideration of the Motion, attendant responses, and the arguments adduced by counsel, the Court is of the opinion that the Motion should be granted.

Accordingly, IT IS ORDERED that the Motion to Quash Indictment is GRANTED.

IT IS FURTHER ORDERED that the indictment in this case is QUASHED.

SIGNED this the _____ day of _____, 2026.

PRESIDING JUDGE

AGREED TO AS FORM:

/s/ Erin Delaney Matney

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Brenda Cardoza on behalf of Felix Valenzuela
Bar No. 24076745
brenda@valenzuela-law.com
Envelope ID: 110541803
Filing Code Description: Motion
Filing Description: to Quash Indictment
Status as of 1/28/2026 9:56 AM MST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Amigo Bail bonds		amigo@amigobail.com	1/28/2026 9:43:31 AM	SENT
DISTRICT ATTORNEY		dacriminal@epcounty.com	1/28/2026 9:43:31 AM	SENT
David Nuñez		david@valenzuela-law.com	1/28/2026 9:43:31 AM	SENT
171st e-File		171dcefile@epcounty.com	1/28/2026 9:43:31 AM	SENT
Felix Valenzuela		felix@valenzuela-law.com	1/28/2026 9:43:31 AM	SENT