



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

**No. 05-11-00531-CR**

**ALFONSO A. ZUNIGA, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 203rd Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. F09-62078-P**

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**OPINION**

Before Justices O'Neill, FitzGerald, and Lang-Miers  
Opinion By Justice Lang-Miers

A jury convicted appellant Alfonso A. Zuniga of aggravated sexual assault with a deadly weapon and assessed punishment at life in prison. In one issue on appeal appellant complains that the trial court failed to administer the jury oath. We resolve appellant's sole issue against him and affirm.

Appellant argues that the verdict in this case is void because it was rendered by an unsworn jury. There are two references to the jury oath in the reporter's record. First, after the conclusion of voir dire on a Wednesday, the trial court told the jury that he would swear them in on the following Monday morning, when the trial was scheduled to begin:

THE COURT: . . . I need to swear you in.

THE COURT: Does either side mind if I swear them in Monday morning?

[The State]: No, Your Honor.

THE COURT: Okay. So with that said, I'll let the bailiffs show you where you need to go, and I will swear you in Monday morning.

Second, when the proceedings resumed on Monday, the trial court stated that it swore the jury in on the previous Wednesday:

[The State]: I think, Judge, that the record should reflect, I believe, on Friday afternoon—I'm not sure if the record reflects this, but I believe that the Court swore in the jury Friday afternoon or—

THE COURT: I did.

[The State]: —or Wednesday.

THE COURT: Yes.

[The State]: So this jury is sworn. . . .

Unless it is disputed at trial or the record affirmatively shows to the contrary, we are required to presume that the jury was properly impaneled and sworn. TEX. R. APP. P. 44.2(c)(2). Based on the passages quoted above, appellant argues that the record affirmatively shows that no oath was given. We disagree. Although a transcription of the oath is not part of the reporter's record, the trial court stated on the record that the oath was administered. In addition, the judgment states, "A jury was selected, impaneled, and sworn." In this case we are required to presume that the jury was properly impaneled and sworn because the issue was not disputed at trial and the record does not affirmatively show that the jury was not sworn. *See id.* We resolve appellant's sole issue against

him and affirm.

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ELIZABETH LANG-MIERS  
JUSTICE

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