

AFFIRM; and Opinion Filed October 8, 2015.



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

**No. 05-15-00034-CR
No. 05-15-00035-CR
No. 05-15-00107-CR**

SUMMER RAE HARRIS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 194th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F14-60100-M, F13-25326-M, F13-25357-M**

MEMORANDUM OPINION

Before Justices Lang-Miers, Brown, and Schenck
Opinion by Justice Lang-Miers

Summer Rae Harris appeals her convictions for felony theft and two forgery by check offenses. In three issues, appellant contends the sentences violate the statutory objectives of punishment. We affirm the trial court's judgments.

In cause nos. 05-15-00035-CR and 05-15-00107-CR, appellant waived a jury and pleaded guilty to two forgery by check offenses. *See* TEX. PENAL CODE ANN. § 32.21(b) (West 2011). Pursuant to plea agreements, the trial court deferred adjudicating guilt, placed appellant on community supervision for two years, and assessed a \$1,500 fine. The State later filed an

amended motion to adjudicate guilt, alleging appellant violated the terms of her community supervision, including committing two new theft offenses. Appellant pleaded true to the allegations in the amended motion in a hearing on the motions. The trial court found the allegations true, adjudicated appellant guilty of two forgery offenses, and assessed punishment in each case at fifteen months' confinement in a state jail facility.

In cause no. 05-15-00034-CR, appellant waived a jury and pleaded guilty to theft, having two previous theft convictions. *See* TEX. PENAL CODE ANN. § 31.03(a) (West Supp. 2014). After finding appellant guilty, the trial court assessed punishment at fifteen months' confinement in a state jail facility.

Appellant contends the fifteen-month sentences violate the statutory objectives of punishment as outlined in the Texas Penal Code. Appellant argues the trial court's "hasty" change of focus from rehabilitation to punishment reflects its violation of the objectives of the penal code. The State responds that appellant failed to preserve this issue for appellate review and, alternatively, the trial court did not abuse its discretion by choosing incarceration over rehabilitation in sentencing appellant.

Appellant did not complain about the sentences either at the time they were imposed or in motions for new trial. *See* TEX. R. APP. P. 33.1(a)(1); *Castaneda v. State*, 135 S.W.3d 719, 723 (Tex. App.—Dallas 2003, no pet.) (to preserve error, appellant must make a timely request, objection, or motion). As a result, appellant has not preserved the issue for our review.

Additionally, as a general rule, punishment that is assessed within the statutory range for an offense is not excessive or unconstitutionally cruel or unusual. *See Kirk v. State*, 949 S.W.2d 769, 772 (Tex. App.—Dallas 1997, pet. ref'd). The forgery and felony theft are state jail felony offenses. The punishment range is confinement in state jail for 180 days to two years and an

optional fine not to exceed \$10,000. TEX. PENAL CODE ANN. §§ 12.35, 31.03(e)(4)(D), 32.21(d) (West 2011 & Supp. 2014). Appellant's fifteen-month sentences are within the statutory range.

We conclude the trial court did not abuse its discretion by assessing the fifteen-month sentences in these cases. *See Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984).

We overrule appellant's issues.

We affirm the trial court's judgment.

/Elizabeth Lang-Miers/

ELIZABETH LANG-MIERS

JUSTICE

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TEX. R. APP. P. 47

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

JUDGMENT

SUMMER RAE HARRIS, Appellant

No. 05-15-00034-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the 194th Judicial District
Court of Dallas County, Texas (Tr.Ct.No.
F14-60100-M).

Opinion delivered by Justice Lang-Miers,
Justices Brown and Schenck participating.

Based on the Court's opinion of this date, the trial court's judgment is **AFFIRMED**.

Judgment entered October 8, 2015.



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

JUDGMENT

SUMMER RAE HARRIS, Appellant

No. 05-15-00035-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the 194th Judicial District
Court of Dallas County, Texas (Tr.Ct.No.
F13-25326-M).

Opinion delivered by Justice Lang-Miers,
Justices Brown and Schenck participating.

Based on the Court's opinion of this date, the trial court's judgment is **AFFIRMED**.

Judgment entered October 8, 2015.



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

JUDGMENT

SUMMER RAE HARRIS, Appellant

No. 05-15-00107-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the 194th Judicial District
Court of Dallas County, Texas (Tr.Ct.No.
F13-25357-M).

Opinion delivered by Justice Lang-Miers,
Justices Brown and Schenck participating.

Based on the Court's opinion of this date, the trial court's judgment is **AFFIRMED**.

Judgment entered October 8, 2015.