Affirmed and Memorandum Opinion filed May 27, 2010.

In The

Fourteenth Court of Appeals

NO. 14-08-00668-CR
NO. 14-08-00669-CR

FLORENCIO QUINTANILLA, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 178th District Court
Harris County, Texas
Trial Court Cause Nos. 0655145 & 0679764

MEMORANDUM OPINION

Appellant Florencio Quintanilla pleaded guilty to the felony offenses of possession of marijuana and bail jumping. Following a pre-sentence investigation (PSI) hearing, the trial court assessed punishment at twenty years' confinement for the marijuana possession and ten years' confinement for the bail jumping. In two issues, appellant contends the trial court erred when it (1) failed to properly advise him of the possible deportation

consequences of his guilty plea and (2) accepted his guilty plea without sufficient evidence to substantiate appellant's guilt. We affirm.

I. BACKGROUND

On February 11, 1993, appellant was indicted in cause number 655145 for the felony offense of possession of more than two hundred and less than two thousand pounds of marijuana.[1] On November 12, 1993, after he failed to appear for a court date related to the possession charge, appellant was indicted in cause number 679764 for the felony offense of bail jumping.[2]

In September 2007, appellant was arrested for assault.[3] On March 14, 2008, he pleaded guilty to the marijuana possession and bail jumping charges without an agreed sentencing recommendation from the State. Following the completion of a PSI report, the trial court conducted a hearing on May 27, 2008. At the conclusion of the hearing, the court found appellant guilty of the charged offenses and assessed his punishment at twenty years' confinement for the possession charge and ten years' confinement for the bail jumping charge, with the sentences to run concurrently. Appellant filed a motion for new trial in both cases which the trial court subsequently denied.

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[1] Appellate case number 14-08-00668-CR.

[2] Appellate case number 14-08-00669-CR.

[3] Appellant was charged with assaulting the mother of his youngest child with whom he was living at the time of his arrest.

II. ANALYSIS

A. Failure to Admonish Regarding Possible Deportation

In his first issue, appellant contends the trial court failed to properly admonish him in compliance with article 26.13 of the Texas Code of Criminal Procedure. Specifically, he argues that there is no evidence in the record showing that the trial court admonished him regarding the possible deportation consequences of his guilty plea.

When reviewing a claim that an appellant was not fully admonished before entering a guilty plea, we determine whether the record discloses that the plea was a voluntary and intelligent choice among the available alternative courses of action. *See Brown v. State*, 896 S.W.2d 327, 328 (Tex. App.—Houston [1st Dist.] 1995, pet. ref'd). Article 26.13 of the Texas Code of Criminal Procedure provides, in relevant part:

> (a) Prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of:
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> . . . .
>
> > (4) the fact that if the defendant is not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law;
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> . . . .
>
> (c) In admonishing the defendant as herein provided, substantial compliance by the court is sufficient, unless the defendant affirmatively shows that he was not aware of the consequences of his plea and that he was misled or harmed by the admonishment of the court.
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> (d) The court may make the admonitions required by this article either orally or in writing. If the court makes the admonitions in writing, it must receive a statement signed by the defendant and the defendant's attorney that he understands the admonitions and is aware of the consequences of his plea. If the defendant is unable or refuses to sign the statement, the court shall make the admonitions orally.

TEX. CODE CRIM. PROC. art. 26.13 (Vernon 2008).

The record reflects that appellant is not a United States citizen. Thus, appellant was entitled to admonishments regarding the possible deportation consequences of his guilty plea. Appellant argues that there is no evidence in the record showing that the trial court admonished him, in either Spanish or English, of the possibility of deportation. Contrary to appellant's contention, the record reflects that the trial court admonished appellant in writing in both the marijuana possession case and the bail jumping case. *See* TEX. CODE CRIM. PROC. art. 26.13(d) ("The court may make the admonitions required by this article either orally or in writing."). Paragraph six of the admonishments form, which was initialed and signed by appellant, states as follows: "[I]f you are not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense with which you are charged in this case may result in your deportation, or your exclusion from admission to this country, or your denial of naturalization under federal law." Paragraph eleven of the section entitled "Statements and Waivers of Defendant," also initialed by appellant, states as follows:

> I read and write/understand the Spanish language; the foregoing Admonishments, Statements, and Waivers as well as the attached written Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession, were read by me or were read to me and explained to me in that language by my attorney and/or an interpreter, namely _______________, before I signed them, and I consulted fully with my attorney before entering this plea ….

Further, as required by subsection (d), the defendant and his attorney signed the document below the final paragraph which reads, in part, "Joined by my counsel, I state that I understand the foregoing admonishments and I am aware of the consequences of my plea…." *See id.* ("If the court makes the admonitions in writing, it must receive a statement signed by the defendant and the defendant's attorney that he understands the admonitions and is aware of the consequences of his plea.")

In *Leon v. State*, the court found these same statements to be sufficient evidence that the appellant had freely and voluntarily entered his plea. *See Leon*, 25 S.W.3d 841,

843–44 (Tex. App.—Houston [1st Dist.] 2000, pet. ref'd). In that case, the plea admonishments form stated that (1) the appellant understood the Spanish language, (2) the appellant's counsel explained the admonishments to the appellant in Spanish before he signed the form, and (3) the appellant consulted fully with his attorney before entering his plea. *See id.* at 842. The form also indicated that (1) the appellant's counsel explained to him the admonishments, the waivers of constitutional rights, the agreement to stipulate, and the judicial confession, (2) the appellant understood the admonishments, and (3) the appellant was aware of the consequences of his plea. *See id*. at 843. The *Leon* court concluded that "the record in the present case indicates appellant was informed of his rights, waived them, and freely and intelligently entered his plea." *Id.* at 843–44.

Appellant also asserts that paragraph eleven shows that he reads and understands only Spanish but that there is no evidence that the admonitions were translated into Spanish. [4] This is so, he argues, because there is no interpreter named in paragraph eleven. However, paragraph eleven does not require an interpreter to read and explain the documents in question to a defendant; rather, it provides that the documents can be read and explained to a defendant by *either* his attorney *or* an interpreter. By initialing and signing the admonishments form, appellant acknowledged that his attorney had read and explained the admonishments to him in Spanish. *See Rivera v. State*, 981 S.W.2d 336, 338 (Tex. App.—Houston [14th Dist.] 1998, no pet.) (noting trial court does not err by failing to appoint interpreter where defendant's counsel is capable of interpreting for defendant).[5]

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[4] We note that on the document entitled "Advice of Defendant's Right to Appeal," appellant checked and initialed the box indicating that he spoke English and signed the document on the same day that he signed the admonishments.

[5] Appellant also contends that the initials next to paragraph six are in reverse order—"QF" instead of "FQ"—and, thus, do not demonstrate that he initialed the paragraph or that he was otherwise properly admonished regarding the risk of deportation. Appellant's argument is without merit. As noted above, appellant's signature appears at the end of the document following the final paragraph which reads, in part, "Joined by my counsel, I state that I understand the foregoing admonishments and I am aware of the

We conclude that the trial court properly admonished appellant as required under article 26.13 of the Texas Code of Criminal Procedure. Issue one is overruled.

B. Sufficiency of the Evidence to Support Guilty Plea

In his second issue, appellant contends the trial court erred when it accepted his guilty plea without sufficient evidence to substantiate his guilt. He argues that the record is devoid of any evidence of his guilt for the offenses with which he was charged.

A plea of guilty does not authorize a felony conviction unless there is sufficient evidence to support such a plea and the judgment to be entered. *See* TEX. CODE CRIM. PROC. art. 1.15 (Vernon 2008); *Dinnery v. State*, 592 S.W.2d 343, 351 (Tex. Crim. App. 1980) (op. on reh'g). The State must introduce sufficient evidence to support the conviction. TEX. CODE CRIM. PROC. art. 1.15. One way in which the State may satisfy its burden of proof is with a judicial confession. *Brink v. State*, 78 S.W.3d 478, 484 (Tex. App.—Houston [14th Dist.] 2001, pet. ref'd). "It is well settled that a judicial confession, standing alone, is sufficient to sustain a conviction upon a guilty plea." *Dinnery*, 592 S.W.3d at 353. The evidence is sufficient under article 1.15 if it embraces every essential element of the offense charged and establishes the defendant's guilt. *See Stone v. State*, 919 S.W.2d 424, 427 (Tex. Crim. App. 1996).

On March 14, 2008, appellant signed a "Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession" in both the marijuana possession and bail jumping cases. In both documents, he stipulated to the evidence and confessed to each element of the offense alleged in the indictment. The documents were also signed by appellant's attorney, the State's attorney, and the judge. Appellant's judicial confessions satisfy each element of the felony offenses with which he was charged and comply with

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consequences of my plea…." In addition, appellant initialed each and every paragraph "QF" and signed the document as "Quintanilla f," none of which he challenges on appeal.

article 1.15 in all respects.[6] Therefore, we find sufficient evidence in the record to support appellant's convictions. *See Palacios v. State*, 942 S.W.2d 748, 750 (Tex. App.—Houston [14th Dist.] 1997, pet. ref'd) ("[W]here the record indicates a judicial confession and agreement to stipulate evidence were filed and approved by the trial court and relied upon by the court in its acceptance of the defendant's plea, those documents constitute sufficient evidence to sustain the plea whether properly introduced into evidence or not."). Appellant's second issue is overruled.

CONCLUSION

We affirm the judgment of the trial court.

/s/ Leslie B. Yates
Justice

Panel consists of Justices Yates, Seymore, and Brown.

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[6] Appellant also complains that the evidence was insufficient to support his guilty plea because the State's attorney "merely asked the Court to take notice of everything" in its file at the hearing but did not introduce any witnesses or exhibits. The court's file included the contents of the clerk's records containing appellant's judicial confession. As noted above, appellant's judicial confessions and agreements to stipulate to evidence were, alone, sufficient evidence to sustain his guilty pleas. *See Dinnery*, 592 S.W.2d at 353.