

**Affirmed and Memorandum Opinion filed June 24, 2010.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-09-00266-CR**

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**JACOB JACOBY ROCKWARD, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 434th District Court  
Fort Bend County, Texas  
Trial Court Cause No. 46,691**

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**M E M O R A N D U M    O P I N I O N**

After a guilty plea, appellant was convicted of aggravated robbery and sentenced to ten years' confinement in the Institutional Division of the Texas Department of Criminal Justice. In a single issue, appellant contends the evidence is legally insufficient to sustain the trial court's finding that he used or exhibited a deadly weapon. We affirm.

Appellant and six others participated in an aggravated robbery in which two of the co-defendants approached the complainant's house, knocked on the door and asked to use the telephone. When the complainant opened the door, the men hit the complainant and

forced their way into his house. In addition to beating him, they pointed a gun at the complainant. Appellant and his co-defendants stole the complainant's mobile phone, wallet, credit cards, and his rental car. After his arrest, appellant admitted that he participated in the home invasion and identified the other six males who were involved.

Appellant was charged by indictment, which contained the following allegations :

#### PARAGRAPH ONE

while in the course of committing theft of property owned by Samuel Jacob and with intent to obtain and maintain control of the property, intentionally and knowingly threaten and place Samuel Jacob in fear of imminent bodily injury and death, and the defendant did then and there use and exhibit a deadly weapon, to wit: a firearm, or any of the following that in the manner of their use or intended use were capable of causing death or serious bodily injury, to wit: a BB Gun, or a CO2 Pellet Gun, or an unknown object.

#### PARAGRAPH 2

while in the course of committing theft of property owned by Samuel Jacob and with intent to obtain and maintain control of the property, intentionally and knowingly threaten and place Samuel Jacob in fear of imminent bodily injury and death, and the defendant did then and there cause serious bodily injury to Samuel Jacob, by striking him with his hand, or foot, or gun, or unknown object.

In connection with his guilty plea, appellant executed a judicial confession that provided:

I, the Defendant, after consultation with my attorney sign this "Written Stipulation and Judicial Confession" and have placed my initials in the brackets beside each, to stipulate and confess to the following:

That in Fort Bend County, Texas, I (the same individual indicted in this cause) on 4/19/07, committed the acts alleged in the indictment this cause. and that the evidence and testimony would prove beyond a reasonable doubt that acts and allegations in the indictment in this cause are true and correct[.]

Citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979), appellant challenges the legal sufficiency of the evidence to support his conviction. However, the *Jackson* standard does not apply when a defendant knowingly, intelligently, and voluntarily enters a plea of guilty. See *Ex Parte Williams*, 703 S.W.2d 682-83 (Tex. Crim. App. 1986). On

appeal from a felony guilty plea to the court, our review is limited to determining whether sufficient evidence supports the judgment under article 1.15 of the Code of Criminal Procedure. *Id.* at 678.

Under article 1.15, the State is required to introduce sufficient evidence to support the judgment. Tex. Crim. Proc. Code Ann. art. 1.15. Appellant claims that evidence admitted at the presentence investigation hearing is insufficient to show that he used or exhibited a deadly weapon. The record reflects that the investigating officer testified that based on information he obtained, he believed that appellant used the pistol and pointed it at the complainant. The officer based his belief on the testimony of one of appellant's co-defendants. Appellant argues that the trial court's determination that appellant used or exhibited a deadly weapon is supported by insufficient evidence because "accomplice witness testimony is well-recognized to be self-serving and unreliable." However, corroboration of accomplice witness testimony is not required regarding a deadly weapon finding. *Vasquez v. State*, 59 S.W.3d 46, 48 (Tex. Crim. App. 2001).

Moreover, appellant executed a judicial confession stating that he committed the acts alleged in the indictment. He argues, however, that he did not admit to use of a deadly weapon. A trial court may make an affirmative finding of the use or exhibition of a deadly weapon against a defendant during the commission of the offense as long as the defendant (1) was a party to an offense where a deadly weapon was used or exhibited, and (2) knew such a weapon would be used or exhibited. *Sarmiento v. State*, 93 S.W.3d 566, 569 (Tex. App.—Houston [14th Dist.] 2002, pet. ref'd). Because appellant was charged with aggravated robbery, the use of a deadly weapon was alleged in the indictment as an element of the offense.

A judicial confession will sustain a conviction upon a guilty plea even if the defendant does nothing more than affirm the indictment's allegations are true and correct. *See Tabora v. State*, 14 S.W.3d 332, 337–38 (Tex. App.—Houston [14th Dist.] 2000, no pet.). Because the use or exhibition of a deadly weapon was pleaded in the indictment and appellant judicially confessed to the allegations in the indictment, his judicial

confession is sufficient evidence to support the finding that he used or exhibited a deadly weapon. *See id.* Appellant's issue is overruled.

The judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Anderson, Frost, and Seymore.

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