

Affirmed and Memorandum Opinion filed November 18, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00690-CR

CHANCE TONE POWELL, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Court Cause No. 09-06300**

MEMORANDUM OPINION

Appellant entered a plea of guilty to burglary of habitation. In accordance with the terms of a plea agreement with the State, the trial court deferred adjudication of guilt, placed appellant under community supervision for ten years, and assessed a fine of \$1,000. Subsequently, the State moved to adjudicate guilt. Appellant entered a plea of true to three of the allegations contained in the motion to adjudicate. The trial court proceeded to adjudicate guilt and on June 30, 2010, sentenced appellant to confinement for twenty years

in the Institutional Division of the Texas Department of Criminal Justice. Appellant filed a timely notice of appeal.

In two issues, appellant claims the sentence was disproportionate and unreasonable in violation of his federal and state constitutional rights. *See* U.S. Const. amend. VIII; Tex. Const. art. I, § 13. Appellant’s sentence falls within the applicable statutory range. *See* Tex. Pen. Code. §12.33. The record does not reflect appellant objected to his sentence in the trial court either at the time of sentencing or in any post-trial motion.¹ To preserve error for appellate review that a sentence is disproportionate, constituting cruel and unusual punishment, a party must present a timely request, objection or motion to the trial court, state the specific grounds for the objection, and obtain a ruling. *See* Tex. R. App. P. 33.1(a) and *Hergert v. State*, 197 S.W.3d 394, 399 (Tex. App. – Beaumont 2006, no pet.). Appellant has waived his complaints. We therefore overrule appellant’s issues and affirm the trial court’s judgment.

PER CURIAM

Panel consists of Justices Seymore, Boyce and Christopher.

Do Not Publish — Tex. R. App. P. 47.2(b).

¹ Appellant’s brief states the claim was raised “in a post-verdict motion filed with the trial court, which was denied on November 16, 2009.” We find no such motion in the record and neither the docket sheet nor the letter of assignment reflect a post-verdict motion was filed. The judgment in this case was entered on June 30, 2010, and the record does not show any activity from July 2009 to January 2010. Appellant sent a letter to the trial court, pro se, complaining of his sentence but no ruling was obtained.