

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-09-00016-CR

ERNEST RAY BEATY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 1st District Court
Jasper County, Texas
Trial Cause No. 9856JD

MEMORANDUM OPINION

Ernest Ray Beaty appeals his conviction for aggravated robbery following the revocation of deferred adjudication community supervision and imposition of a sentence of six years of incarceration in the Correctional Institutions Division of the Texas Department of Criminal Justice. *See* Tex. Penal Code Ann. § 29.03 (West 2003). On appeal, Beaty raises a single issue that seeks a construction of the statute that authorizes shock community supervision. *See* Tex. Code Crim. Proc. Ann. art. 42.12, § 6 (West Supp. 2010).

Beaty received deferred adjudication community supervision. *See* Tex. Code Crim. Proc. Ann. art. 42.12, § 5(a). The trial court revoked the community supervision

order and imposed a six year sentence on December 3, 2008. Beaty concedes that the trial court did not suspend the execution of the sentence within 180 days of the date on which sentence was imposed. *See* Tex. Code Crim. Proc. Ann. art. 42.12, § 6. Beaty also concedes that he stands convicted of an aggravated offense that makes him ineligible for community supervision. *See* Tex. Code Crim. Proc. Ann. art. 42.12, §§ 3, 3g(a)(F); *see also State v. Dunbar*, 297 S.W.3d 777, 780 (Tex. Crim. App. 2009) (holding that the trial court lacked jurisdiction to place a person convicted of an offense listed in article 42.12, section 3g, on shock community supervision).

The issue which Beaty seeks to raise was not preserved for appellate review. *See* Tex. R. App. P. 33.1.¹ Accordingly, we overrule issue one and affirm the judgment of the trial court.

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on November 8, 2010
Opinion Delivered November 24, 2010
Do Not Publish

Before McKeithen, C.J., Kreger and Horton, JJ.

¹“As a prerequisite to presenting a complaint for appellate review, the record must show that: (1) the complaint was made to the trial court by a timely request, objection, or motion that: (A) stated the grounds for the ruling that the complaining party sought from the trial court with sufficient specificity to make the trial court aware of the complaint, unless the specific grounds were apparent from the context; and (B) complied with the requirements of the Texas Rules of Civil or Criminal Evidence or the Texas Rules of Civil or Appellate Procedure; and (2) the trial court: (A) ruled on the request, objection, or motion, either expressly or implicitly; or (B) refused to rule on the request, objection, or motion, and the complaining party objected to the refusal.” Tex. R. App. P. 33.1.