

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-09-00029-CR

WILLIE HENRY III, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 98575**

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, appellant Willie Henry III pled no contest to aggravated assault. The trial court found the evidence sufficient to find Henry guilty, but deferred further proceedings, placed Henry on community supervision for three years and assessed a fine of \$750. The State subsequently filed a motion to revoke Henry's unadjudicated community supervision. Henry pled "true" to two violations of the conditions of his community supervision. The trial court found that Henry violated the conditions of

his community supervision, found Henry guilty of aggravated assault, and assessed punishment at eighteen years of confinement. Henry then filed this appeal, in which he raises three issues for our consideration.

In his first issue, Henry contends trial counsel was ineffective for failing to properly investigate the case before he pled no contest. In his second issue, Henry contends trial counsel was ineffective for failing to “fully explain a proposed plea offer.” In his third issue, Henry contends he was denied a fair trial based upon the cumulative effect of trial counsel’s allegedly ineffective assistance. We address these issues together.

A defendant placed on deferred adjudication community supervision may raise issues relating to the original plea proceeding only in an appeal taken when the trial court first imposed deferred adjudication community supervision. *Manuel v. State*, 994 S.W.2d 658, 661-62 (Tex. Crim. App. 1999). All of Henry’s ineffective assistance complaints arise from his conviction and punishment, not the revocation of his community supervision. Therefore, Henry had to appeal within thirty days of October 1, 2007, which is the date on which the trial court placed him on community supervision. *See* TEX. R. APP. P. 26.2(a)(1). Henry did not timely appeal the trial court’s order placing him on deferred adjudication community supervision; therefore, he may not raise issues in this appeal regarding ineffective assistance of counsel during the original plea proceeding. *See id.*; *Manuel*, 994 S.W.2d at 661-62. Accordingly, we overrule Henry’s issues and affirm the trial court’s judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on June 29, 2009
Opinion Delivered July 15, 2009
Do Not Publish

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