

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-09-00311-CR

JHAMOLON JHIRMAINE LAFLEUR, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 96454**

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, appellant Jhamolon Jhirmaine Lafleur pled guilty to aggravated robbery. The trial court found the evidence sufficient to find Lafleur guilty, but deferred further proceedings, placed Lafleur on community supervision for ten years, and assessed a fine of \$1500. The State subsequently filed a motion to revoke Lafleur’s unadjudicated community supervision. Lafleur pled “true” to two of the alleged violations of the terms of his community supervision. The trial court found that Lafleur violated the conditions of his community supervision, found him guilty of aggravated

robbery, and assessed punishment at seventy-five years of confinement. Lafleur then filed this appeal, in which his sole contention is that the trial court's assessment of the "maximum" punishment was cruel and unusual. *See* U.S. CONST. amend. VIII; TEX. CONST. art. I, § 13; TEX. CODE CRIM. PROC. ANN. art. 1.09 (Vernon 2005). We affirm the trial court's judgment.

The record does not reflect that Lafleur raised his complaint in the trial court. *See* TEX. R. APP. P. 33.1(a). However, even if Lafleur had preserved the issue for our review, Lafleur's argument would still fail. Lafleur's sentence was within the statutorily-authorized range of punishment. *See* TEX. PEN. CODE ANN. § 29.03(b) (Vernon 2003) (aggravated robbery is a first-degree felony); TEX. PEN. CODE ANN. § 12.32 (Vernon Supp. 2009) (first-degree felony punishment range is five to ninety-nine years of confinement and a fine of up to \$10,000).¹ Lafleur could have received up to ninety-nine years of confinement; therefore, his sentence of seventy-five years did not constitute a maximum sentence. *See* TEX. PEN. CODE ANN. § 12.32. Generally, a sentence that is within the range of punishment established by the Legislature will not be disturbed on appeal. *Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984). In addition, a punishment that is within the statutory range for the offense is generally not excessive or unconstitutionally cruel and unusual. *Kirk v. State*, 949 S.W.2d 769, 772 (Tex. App.--Dallas 1997, pet. ref'd). Furthermore, we note that Lafleur

¹ Because the 2009 amendment did not substantively change section 12.32, we cite the current version of the statute.

provides no supporting authorities for his contentions regarding Article I, section 13 of the Texas Constitution and Article 1.09 of the Texas Code of Criminal Procedure. *See* TEX. R. APP. P. 38.1(h); TEX. CONST. art. I, § 13; TEX. CODE CRIM. PROC. ANN. art. 1.09. We overrule Lafleur’s sole issue and affirm the trial court’s judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on February 25, 2010
Opinion Delivered March 31, 2010
Do Not Publish

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