

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00158-CR

DENNIS WILLIAMS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 10-08336

MEMORANDUM OPINION

Pursuant to a plea bargain, Dennis Williams pleaded guilty to aggravated robbery. *See* Tex. Penal Code Ann. §§ 12.32, 29.03(a)(2),(b) (West 2011). The trial court deferred adjudication of guilt and placed Williams on community supervision for ten years. The State filed a motion to revoke. After finding three of the alleged violations to be true, the trial court revoked the unadjudicated community supervision, found Williams guilty, and sentenced him to seventy-five years in prison. In two issues, Williams argues his punishment was “constitutionally disproportionate and unreasonable” under the Eighth

Amendment of the United States Constitution and Article I, section 13 of the Texas Constitution. *See* U.S. Const. amend. VIII; Tex. const. art. I, § 13.

Williams did not object when the trial court pronounced sentence, and he did not make a specific argument regarding these complaints in a motion for new trial. *See* Tex. R. App. P. 33.1(a)(1)(A) (To preserve an issue for review, a party must make a timely request, objection, or motion that states the grounds for the ruling with sufficient specificity to make the trial court aware of the complaint.).

The Eighth Amendment provides that “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”¹ U.S. Const. amend. VIII; *see generally Robinson v. California*, 370 U.S. 660, 82 S.Ct. 1417, 1420-21, 8 L.Ed.2d 758 (1962) (The Fourteenth Amendment made the Eighth Amendment’s prohibition against cruel and unusual punishment applicable to the states.). The punishment range for aggravated robbery, a first degree felony, is life imprisonment or imprisonment for any term not more than ninety-nine years or less than five years, plus a fine of up to \$10,000. Tex. Penal Code Ann. §§ 12.32, 29.03(b). When the punishment assessed is within the range authorized by the Legislature in a valid statute, generally the punishment is not considered excessive, cruel, or unusual. *See Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984); *Harris v. State*, 656 S.W.2d 481, 486 (Tex. Crim. App. 1983); *Jordan v. State*, 495 S.W.2d 949, 952 (Tex. Crim. App. 1973).

¹ Williams does not argue that the Texas Constitution affords greater protection than the United States Constitution.

Williams's seventy-five-year sentence falls within the range of punishment authorized by statute. *See* Tex. Penal Code Ann. §§ 12.32, 29.03(b). Even if the issues were preserved for appellate review, the issues do not raise error requiring reversal of the trial court's judgment. *See Jackson*, 680 S.W.2d at 814; *Harris*, 656 S.W.2d at 486; *Jordan*, 495 S.W.2d at 952.

In *Solem*, the United States Supreme court set forth a three-pronged test for analyzing proportionality, under which the court should consider (1) the gravity of the offense and the harshness of the penalty, (2) the sentences imposed for similar crimes in the same jurisdiction, and (3) the sentences imposed for the commission of the same crime in other jurisdictions. *Solem v. Helm*, 463 U.S. 277, 290-92, 103 S.Ct. 3001, 77 L.Ed.2d 637 (1983); *see also Mathews v. State*, 918 S.W.2d 666, 669 (Tex. App.—Beaumont 1996, pet. ref'd); *Puga v. State*, 916 S.W.2d 548-549 (Tex. App.—San Antonio 1996, no pet.); *McGruder v. Puckett*, 954 F.2d 313, 316 (5th Cir. 1992). The sentence in this case is within the range the Legislature has determined constitutes an appropriate punishment for this kind of crime. *See* Tex. Penal Code Ann. §§ 12.32, 29.03(b). Williams provided no information comparing his sentence with those imposed against other defendants in Texas and in other jurisdictions for similar offenses. *See Solem*, 463 U.S. at 292. Even if Williams's issues are properly before this Court, nothing in this record establishes that his sentence was grossly disproportionate to the gravity of his offense. *See Solem*, 463 U.S. at 290-91; *McGruder*, 954 F.2d at 316.

We overrule Williams's issues and affirm the trial court's judgment.

AFFIRMED.

DAVID GAULTNEY
Justice

Submitted on July 8, 2011
Opinion Delivered August 10, 2011
Do Not Publish

Before Gaultney, Kreger, and Horton, JJ.