

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00166-CR

TRINITY MICHAEL JAMES A/K/A TRINITY JAMES, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 07-01844

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, Trinity Michael James pleaded guilty to the offense of failure to comply with sex offender registration requirements. *See* Tex. Code Crim. Proc. Ann. art. 62.102 (West 2006).¹ The trial court deferred adjudication of guilt and placed James on unadjudicated community supervision for five years.

¹As James notes in his brief, the indictment indicates the offense was “pursuant to Articles 62.02/62.10, Code of Criminal Procedure.” He correctly states that in 2005 the Texas Legislature renumbered article 62.02 to article 62.051, and article 62.10 to article 62.102. *See* Act of May 26, 2005, 79th Leg., R.S., ch. 1008, § 1.01, arts. 62.051, 62.102, 2005 Tex. Gen. Laws 3385, 3392-93, 3407-08.

The State filed a motion to revoke the community supervision. James pleaded “true” to one violation. The trial court found James violated this term of his community supervision order, adjudicated his guilt, and sentenced him to twenty years in prison.

James argues the trial court “erred by punishing [him] for a second (2nd) degree felony when [he] should have been placed on probation for a third (3rd) degree felony offense.” He contends the sentence is “outside the maximum range of punishment.” The indictment and the plea papers, as James notes, state that this offense is a second degree felony. The indictment also shows four prior felony convictions.

James did not file a motion to quash the indictment. *See* Tex. Code Crim. Proc. Ann. art. 1.14 (West 2005). He signed plea admonishment documents stating the offense was a second degree felony. He did not appeal from the deferred adjudication order. At the revocation hearing, James admitted: “I am guilty of not reporting to probation.” James did not object to the twenty-year sentence imposed by the trial court.

Depending on certain conditions, the offenses for failure to register as a sex offender range from state jail felony to first degree felony. *See* Tex. Code Crim. Proc. Ann. art. 62.102. Article 62.102(a), (b)(3) provides as follows:

(a) A person commits an offense if the person is required to register and fails to comply with any requirement of this chapter.

(b) An offense under this article is:

....

(3) a felony of the second degree if the actor is a person whose duty to register expires under Article 62.101(a) and who is

required to verify registration once each 90-day period under Article 62.058.

Tex. Code Crim. Proc. Ann. art. 62.102(a), (b)(3). James is required to register as a sex offender for life. *See* Tex. Code Crim. Proc. Ann. art. 62.101(a) (West 2006); *see also* Tex. Code Crim. Proc. Ann. art. 62.058(a) (West. 2006). Although James stated at the hearing on the motion to revoke that he is required to report annually, the record reflects otherwise. The court's file contains documents indicating that James is required to register every 90 days. The documents include a travel permit signed by James noting he was "on probation for the offense of Sex Offenders Duty To Register Life/90 Day[.]" As set out in article 62.102(b)(3), the offense is a second degree felony if the person is required to register under article 62.101(a) and is required to register once each 90-day period.

The documents in the court's record, including the indictment, show the offense for which appellant was convicted is a second degree felony. *See* Tex. Code Crim. Proc. Ann. art. 62.102(b)(3). The trial court did not sentence James to a punishment outside the proper range of the offense; a twenty-year sentence is within the range for a second degree felony. Tex. Penal Code Ann. § 12.33 (West 2011). We overrule James's appellate issue and affirm the judgment of the trial court.

AFFIRMED.

DAVID GAULTNEY
Justice

Submitted on September 6, 2011
Opinion Delivered September 28, 2011
Do Not Publish

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