

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-15-00336-CR**  
**NO. 09-15-00337-CR**

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**PAUL JASON PARIS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the Criminal District Court**  
**Jefferson County, Texas**  
**Trial Cause Nos. 14-20383 and 14-20384**

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**MEMORANDUM OPINION**

Appellant, Paul Jason Paris<sup>1</sup>, appeals his convictions for aggravated assault with a deadly weapon. In four issues, Paris argues the trial judge improperly involved itself in the plea bargain process, to Paris's detriment. We overrule Paris's issues and affirm the judgments.

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<sup>1</sup> The record reflects that appellant is also known as Paul Jason Pairs.

## **I. Background**

A Jefferson County grand jury indicted Paris for aggravated assault with a deadly weapon against two victims, each with a different cause number. The cases arose from a single event, involved the same allegations, and were tried simultaneously.

The State's attorney offered Paris a plea bargain consisting of ten years deferred adjudication in return for a guilty plea. Prior to voir dire examination, the parties stated the terms of the plea bargain for the record, and Paris confirmed that he rejected the State's offer. The trial judge then questioned Paris to ensure he understood the potential consequences he faced if the jury found him guilty. Paris again indicated that he did not want to plead guilty. The trial judge further admonished Paris regarding the differences between the different types of probation available. Paris continued with his assertion that he did not want to plead guilty. Following voir dire, during his arraignment, Paris did in fact enter a plea of "not guilty" for both cases.

At the conclusion of the trial, the jury found Paris guilty of aggravated assault as charged in the indictments. The jury assessed his punishment at eight years imprisonment but recommended that his prison term be probated and imposed a fine

of \$4,000. The judge pronounced Paris's sentence in accordance with the jury's verdict, probating Paris's term of imprisonment for ten years.

## **II. Trial Court's Statements**

In four related issues, Paris complains that the trial court improperly intruded in the plea bargain process by advising Paris that "if you're not guilty, don't say you're guilty. Fight," and by advising Paris that the trial court would "not accept a guilty plea when someone contends they are not guilty."

Paris draws our attention to two exchanges on the record, both of which occurred after Paris rejected the State's plea bargain offer. The first took place before voir dire when the trial court questioned Paris about his understanding of the consequences of his rejection and the terms of the State's offer:

[DEFENSE COUNSEL]: Mr. Paris, do you understand the State has offered you 10 years deferred adjudicated probation for a plea of guilty in this case? It's the type of probation if you complete it, you don't have a conviction on your record and the case will be dismissed. You don't want to do that. You want to go to trial; is that right? You don't want to take probation?

[PARIS]: No, I didn't do anything.

[TRIAL COURT]: Do you understand the consequences if you're found guilty?

[PARIS]: No, sir. I've never been told.

[DEFENSE COUNSEL]: Well, you could possibly get 20 years in the penitentiary, the worst possibility but you would also be eligible

for the jury to give you probation if the sentence is 10 years or less but that would be up to them but you would be convicted of this.

[TRIAL COURT]: There is a difference between the jury granting you probation in a trial and then deferred or unadjudicated probation being granted by the Judge upon a plea of guilty.

[PARIS]: Then I would be pleading guilty to felonies?

[TRIAL COURT]: Uh-huh.

[PARIS]: No.

[TRIAL COURT]: I'm just telling you that nobody is forcing you to do anything. You just need to make an informed choice. Do you understand that probation, if you're found guilty by a jury, then the probation, if they grant probation, would be what's called regular probation where you would be sentenced to a term of confinement in prison and that confinement, if it's 10 years or less, can be suspended. The difference between that kind of probation is it is a felony conviction forever. Do you understand? It is a conviction forever. Deferred or unadjudicated probation is not a conviction. It's called deferred or unadjudicated probation because any finding of guilt is deferred so long as you follow the terms and conditions of the probation. There is a big difference between what happens generally in this court, which is deferred or unadjudicated probation is -- you've sat in here a long time. You've seen us do that over and over again, and there is a reason why it's done predominantly because people elect to do that because it's not a finding of guilt. It gives them a second chance and keeps their record clean but you have a constitutional right for a jury trial if you want and I tell people if you're not guilty, don't say you're guilty. Fight.

But it's your choice. It's not mine. This is your life and there is a big difference between a probation, a deferred or unadjudicated probation that the Court grants, versus a conviction which lasts forever of a felony offense which a jury would pass on and approve. As long as you understand fully. Do you see fully the differences?

[PARIS]: Yes, sir.

[TRIAL COURT]: Knowing that, you're asking for a trial?

[PARIS]: I'm going to fight.

[TRIAL COURT]: Good. Okay. I'm not saying good. Your wish shall be accommodated.

The second exchange occurred later, after the guilt-innocence phase of trial. After the jury found Paris guilty as charged in both indictments, the trial court revoked Paris's bond and the following ensued:

[PARIS]: If you let me go, I swear to God I will be here in the morning.

[TRIAL COURT]: That's just not the way it works based upon your good word, sir.

[PARIS]: I got a child here.

[TRIAL COURT]: Well, I'm sure your lawyer informed you that these were realistic potentialities. You're looking at up to 20 years in prison with an affirmative finding. That would mean you would be doing at least 10 years calendar time before you would even be reviewed for parole.

[PARIS]: When we talked, you told me to fight; and I fought.

[TRIAL COURT]: Sir?

[PARIS]: You told me to fight if I wasn't guilty.

[TRIAL COURT]: Sir, don't blame you going to trial on me.

[PARIS]: I'm not at all. I'm not. That's not what I meant by that.

[TRIAL COURT]: You have professed your innocence the whole time. This Court does not accept a guilty plea when someone contends they are not guilty. That would be inappropriate. That's what that's all about, right?

[PARIS]: Yes, sir. You're absolutely right, Judge.

[TRIAL] COURT: And did I not tell you don't be going to trial because of my advice. You listen to the advice of your lawyer. I don't understand why you would even contend that because that was clearly not what was said, and we can pull a transcript of that proceeding.

[PARIS]: I was actually commending you for saying that.

[TRIAL] COURT: Well, we just don't make fiction here. You've been professing your innocence the whole time. You told me before this trial started you were not guilty. Well, no one -- the point is this Court and no one else in this court's power is going to force you into changing a plea when you're not guilty and you have to plead guilty under oath anyway. That would be different from what you had professed throughout the history of the trial.

[PARIS]: Yes, sir.

### **III. Legal Standards**

“[P]lea bargaining is the process by which the defendant in a criminal case relinquishes his right to go to trial in exchange for a reduction in charge and/or sentence.” *Perkins v. Court of Appeals for Third Supreme Judicial Dist. of Tex., at Austin*, 738 S.W.2d 276, 282 (Tex. Crim. App. 1987) (citation omitted).

“The only proper role of the trial court in the plea-bargain process is advising the defendant whether it will ‘follow or reject’ the bargain between the state and the defendant.” *Moore v. State*, 295 S.W.3d 329, 332 (Tex. Crim. App. 2009) (citing Tex. Code Crim. Proc. art. 26.13(a)(2)). It is improper for a trial judge to participate or become otherwise involved in the formation of plea bargains. *See id.* at 331–32.

“[T]he trial judge should always avoid the appearance of any judicial coercion or prejudgment of the defendant since such influence might affect the voluntariness of the defendant’s plea.” *Perkins*, 738 S.W.2d at 282.

#### **IV. Analysis**

We will presume, without deciding, that Paris preserved his arguments that the trial court intruded into the plea bargain process for appellate review. *Cf. Moore*, 295 S.W.3d at 333 (holding that the defendant failed to object during trial, and therefore failed to preserve for appeal, the issue of whether the trial court improperly added conditions to the state’s plea bargain with the defendant).

Paris first argues that the trial court improperly engaged in the plea bargaining process when it stated: “I tell people if you’re not guilty, don’t say you’re guilty. Fight.” Yet, the record reveals that at the time of the trial court’s statement, plea negotiations had already ended and Paris had already rejected the plea offer. The trial court did not suggest that Paris should reconsider his rejection and attempt to engage the State in further plea negotiations. Rather, taken in context, the record reveals that, in response to Paris’s assertion of ignorance, the trial court made a balanced presentation of the differences in the punishments associated with the plea offer and those associated with a potential guilty verdict from the jury. Paris indicated he understood these differences and maintained his desire to go to trial.

Because we find that the trial court did not intrude into the plea bargaining process, we overrule Paris's first issue.

Moreover, we note that Texas law provides trial judges with broad discretion to refuse a plea agreement between the State and the defendant. *Rodriguez v. State*, 470 S.W.3d 823, 828 (Tex. Crim. App. 2015) (citing Tex. Code Crim. Proc. art. 26.13(a)(2)). And while plea bargains are an important part of the Texas justice system, “[a] defendant . . . does not have either a constitutional or statutory right to plea bargain with a prosecutor for a particular punishment or for a reduced charge.” *Perkins*, 738 S.W.2d at 282. Paris's case is therefore fundamentally different from those that discuss whether a trial court improperly coerced a defendant into accepting a plea agreement, pleading guilty, and relinquishing his right to trial. *See, e.g., id.*; *Ex parte Shuflin*, 528 S.W.2d 610, 615 (Tex. Crim. App. 1975).

Paris's second issue asserts that the trial court committed reversible error by providing erroneous legal advice to Paris. Specifically, Paris maintains that the trial court provided him with unsound legal advice by “[e]ncouraging [Paris] to ‘fight’ if he was not guilty.” However, Paris does not argue that absent the court's comments, he would have changed his stance and accepted the plea bargain. Rather, Paris was represented by counsel and maintained his plea of not guilty throughout the



proceedings. Paris's plea of not guilty was not the result of fundamental unfairness, and Paris has shown no harm. We overrule Paris's second issue.

Paris contends in his third issue that the trial court committed reversible error by misstating the law to Paris when it told him that since Paris maintained his innocence, he would have been required to "plead guilty under oath anyway." We again fail to find harm to Paris resulting from the trial court's statement. At the time of the trial court's comment, not only had the plea bargain process concluded, but the jury had found Paris guilty. We overrule Paris's third issue.

Paris's fourth issue complains that the cumulative effect of the trial court's actions denied Paris due process of law. Having already overruled Paris's first, second, and third issues, we likewise overrule his fourth for the reasons set out above.

Having overruled all of Paris's issues, we affirm the judgments.

**AFFIRMED.**

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CHARLES KREGER  
Justice

Submitted on June 3, 2016  
Opinion Delivered June 21, 2017  
Do Not Publish

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