



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-16-00408-CR

WILLIAM CLARK BRAGG, APPELLANT

V.

STATE OF TEXAS, APPELLEE

On Appeal from the 181st District Court
Randall County, Texas
Trial Court No. 24,516-B; Honorable John B. Board, Presiding

May 17, 2017

MEMORANDUM OPINION

Before **QUINN, C.J.**, and **CAMPBELL** and **PIRTLE, JJ.**

Following an open plea of guilty in a bench trial, Appellant, William Clark Bragg, was convicted by the court of the offense of injury to an elderly individual¹ and

¹ TEX. PENAL CODE ANN. § 22.04(a)(3) (West Supp. 2016). An indictment alleging an offense under this provision is a third degree felony when the conduct is committed intentionally or knowingly. *Id.* at § 22.04(f).

sentenced to twenty years confinement.² By a single issue, Appellant contends the trial court violated his rights by failing to require the filing of a written waiver of his right to a jury trial pursuant to article 1.13 of the Texas Code of Criminal Procedure. We affirm.

BACKGROUND

Because Appellant does not challenge the sufficiency of the evidence supporting the trial court's judgment, we will recite only the facts relevant to the issue presented. On September 1, 2016, Appellant appeared in person and by counsel and in open court entered a plea of guilty to the offense of injury to an elderly individual.³ A "unified" hearing was held for the purpose of allowing the trial court to hear evidence relevant to punishment in the event it was inclined to grant Appellant's request for deferred adjudication. Prior to the presentation of evidence, Appellant's counsel presented the trial court with a "plea memorandum" containing a written waiver of the right to a jury trial. Although not contained in the original Clerk's Record, a Supplemental Clerk's Record filed with this court includes a copy of that memorandum containing the following statement:

Waiver of Jury. COMES now the defendant, in person and in open Court, and joined by counsel for defendant, and by counsel for the State, and waives the right of trial by jury in accordance with Art. 1.13 C.C.P.

² Appellant's range of punishment was enhanced to that of a second degree felony by virtue of a prior felony conviction. TEX. PENAL CODE ANN. § 12.42(a) (West Supp. 2016).

³ Although not regarded by the trial court as a "plea bargain," the State agreed to the dismissal of another felony charge in exchange for Appellant's plea of guilty.

ANALYSIS

Appellant contends he “did not execute, and the record does not reflect, a waiver of a jury trial.” The record belies that fact and unequivocally defeats Appellant’s contention. Issue one is overruled.

CONCLUSION

The judgment of the trial court is affirmed.

Per Curiam

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