



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-08-00170-CR

RICHARD LEONAR WHYTUS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 196th Judicial District Court
Hunt County, Texas
Trial Court No. 23,585

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Richard Leonar Whytus appeals from his conviction by a jury on seven charges of aggravated assault with a deadly weapon.¹ *See* TEX. PENAL CODE ANN. § 22.02(a)(2) (Vernon Supp. 2008). The evidence shows that while quite intoxicated, he drove his car into a daycare full of napping children. Two workers and several of the children were injured.

Whytus has filed a single brief, in which he raises a single issue which is common to all of his appeals. He argues that the trial court committed reversible error by refusing to submit his requested charge on the lesser-included offense of assault causing bodily injury.

We addressed this issue in detail in our opinion of this date on Whytus's appeal in cause number 06-08-00167-CR. For the reasons stated therein, we likewise conclude that error has not been shown in this case.

We affirm the judgment.

Bailey C. Moseley
Justice

Date Submitted: February 26, 2009

Date Decided: February 27, 2009

Do Not Publish

¹Whytus appeals from seven convictions, all for aggravated assault with a deadly weapon, cause numbers 06-08-00167-CR through 06-08-00173-CR.