



**IN THE
TENTH COURT OF APPEALS**

No. 10-15-00385-CR

SOPHIA CASTILLO,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 40th District Court
Ellis County, Texas
Trial Court No. 39226CR**

MEMORANDUM OPINION

Sophia Castillo was convicted of the offense of fraudulent use or possession of identifying information, which was enhanced to a third degree felony by two prior state jail felony convictions. TEX. PENAL CODE ANN. § 32.51 (West 2011). Castillo was sentenced to the maximum sentence of ten years in prison and a \$10,000 fine. In two issues, Castillo complains that her sentence violates her rights pursuant to the United States and Texas Constitutions because the sentence is grossly disproportionate to the crime and inappropriate as applied to her.

At trial, Castillo never objected to the sentence she received nor did she file a motion for new trial on the basis that her sentence violated the 8th Amendment to the United States Constitution or Article I, Section 13 of the Texas Constitution. *See* U.S. CONST. amend. VIII; TEX. CONST. art. I, § 13. An objection on this basis must be made to the trial court in order to be preserved. Because no such objection was made, we find that Castillo's complaints were not preserved for our review. TEX. R. APP. P. 33.1(a)(1)(A); *Wilson v. State*, 71 S.W.3d 346, 349 (Tex. Crim. App. 2002); *Broxton v. State*, 909 S.W.2d 912, 918 (Tex. Crim. App. 1995) (reviewing court will not consider errors, even of constitutional magnitude, not called to the trial court's attention). *See also Rhoades v. State*, 934 S.W.2d 113, 120 (Tex. Crim. App. 1996) (holding that complaint relating to constitutional prohibition against cruel and unusual punishment was waived when no objection on this basis was made in trial court). Because Castillo's first and second issues were not preserved, they are overruled.

Conclusion

Having found that Castillo's complaints were not properly preserved, we affirm the judgment of the trial court.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Affirmed

Opinion delivered and filed September 21, 2016

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[CR25]

