



IN THE
TENTH COURT OF APPEALS

No. 10-17-00274-CR

ANTHONY EVIEN WILLIAMS,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 54th District Court
McLennan County, Texas
Trial Court No. 2016-1431-C2

MEMORANDUM OPINION

Anthony Evien Williams was convicted of the offense of aggravated assault. The jury found the enhancement paragraphs to be true and assessed punishment at confinement for life. We affirm.

Background Facts

Anita Gonzalez testified that she was walking down the street when she felt a sharp pain. Gonzalez realized that she was being hit with what she thought at the time

was a baseball bat. Gonzalez was struck in the back of the head, the arms, and the back. Gonzales suffered a broken arm and a contusion on her back. Gonzalez testified that she clearly saw Williams's face during the assault, and she identified him as the person who assaulted her.

Extraneous Offenses

In the sole issue on appeal, Williams argues that the trial court erred in admitting extraneous offenses. We review a trial court's ruling on the admissibility of extraneous-offense evidence for an abuse of discretion. *Williams v. State*, 301 S.W.3d 675, 687 (Tex. Crim. App. 2009). As long as the trial court's ruling is not outside the "zone of reasonable disagreement," there is no abuse of discretion. *Martinez v. State*, 327 S.W.3d 727, 736 (Tex. Crim. App. 2010); *see also Newton v. State*, 301 S.W.3d 315, 317 (Tex. App.—Waco 2009, pet. ref'd) (citing *De La Paz v. State*, 279 S.W.3d 336, 343-44 (Tex. Crim. App. 2009)).

Williams specifically complains of two extraneous offenses involving a threat and a prior assault by Williams against Gonzalez. During the direct examination of Gonzales, the State asked if Williams had threatened her prior to the assault that was the subject of the trial. Gonzalez responded, "Yes, ma'am." The State then asked what he said. Gonzalez responded, "That I was going to quit playing with him. The night before he threw a brick at me." The State then started asking another question, but Williams's trial counsel objected.

Williams argues that the trial court abused its discretion in allowing Gonzales to testify about the previous threat – that she was going to “quit playing with him” and the previous assault – that he threw a brick at her. As to the threat, Williams has not preserved his complaint for review. Generally, to preserve error for appellate review, a party must make a timely and specific objection in the trial court. TEX. R. APP. P. 33.1(a). Williams did not object to the State’s question asking Gonzalez if Williams had previously threatened her. Gonzalez answered the question without objection. The State then asked what Williams said with no objection. If a defendant fails to object until after an objectionable question has been asked and answered, and he can show no legitimate reason to justify the delay, his objection is untimely, and any claim of error is forfeited. *Luna v. State*, 268 S.W.3d 594, 604 (Tex. Crim. App. 2008). Williams has not provided any reason for the delay in his objection. Williams has not preserved his complaint about a prior threat for review.

Williams also complains about the admission of a prior assault when Gonzales testified that Williams threw a brick at her. After Williams objected to Gonzalez’s testimony, the State again asked her if Williams had thrown objects at her the night before, and Gonzalez responded “yes.” Williams did not object to the question or the response. During cross-examination, Williams’s trial counsel asked Gonzalez if she had called the police the night before the assault. Gonzalez responded that she had called the police. Trial counsel then asked, “And that he hit you with a brick?” Gonzalez

responded, "He threw a brick at me, but it hit somebody else. ... But he threw it at me."

The improper admission of evidence is not reversible error if the same or similar evidence is admitted without objection at another point in the trial. *See Leday v. State*, 983 S.W.2d 713, 718 (Tex. Crim. App. 1998). We find that any error in admitting Gonzalez's testimony about the prior assault was harmless and did not affect Williams's substantial rights. TEX. R. APP. P. 44.2(b). We overrule William's sole issue on appeal.

Conclusion

We affirm the trial court's judgment.

AL SCOGGINS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

*(Chief Justice Gray concurring with a note)

Affirmed

Opinion delivered and filed May 9, 2018

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[CRPM]

*(Chief Justice Gray concurs in the judgment to the extent it affirms the trial court's judgment of conviction. A separate opinion will not issue.)

