

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-01-00237-CR

Juan Caudana, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT
NO. 006722, HONORABLE MICHAEL LYNCH, JUDGE PRESIDING**

A jury found appellant Juan Caudana guilty of multiple counts of aggravated sexual assault of a child, indecency with a child by contact, and indecency with a child by exposure. *See* Tex. Pen. Code Ann. §§ 21.11, 22.021 (West Supp. 2002). In his sole point of error, appellant contends the sixty-five-year term of imprisonment imposed by the jury for the aggravated sexual assaults is grossly disproportionate to the offenses. We will affirm.

The Eighth Amendment has been held to prohibit punishments that are grossly disproportionate to the offense. U.S. Const. amend. VIII; *Solem v. Helm*, 463 U.S. 277, 287 (1983); *Hutto v. Finney*, 437 U.S. 678, 685 (1978). Under the Supreme Court's disproportionality analysis, we must consider the gravity of the offense and the harshness of the penalty, the sentences imposed on other criminals in the same jurisdiction, and the sentences imposed for the commission of the same crime in other jurisdictions. *Solem v. Helm*, 463 U.S. at 292; *see McGruder v. Puckett*, 954 F.2d 313, 316 (5th Cir. 1992) (reviewing *Solem v. Helm* and *Harmelin v. Michigan*, 501 U.S. 957 (1991)).

The evidence in this cause shows that appellant sexually assaulted his stepdaughter repeatedly over a three-year period, sometimes at knifepoint. He threatened to kill her and her family if she disclosed his acts. Appellant had previous convictions for physically assaultive behavior. Given this evidence, we do not believe that the punishment imposed by the jury is grossly disproportionate to the offenses. Further, the record contains no information by which we could compare appellant's sentence to sentences for similar offenses in Travis County or other jurisdictions. The point of error is overruled.

The district court prepared separate judgments for each count. The judgments are affirmed.

Marilyn Aboussie, Chief Justice

Before Chief Justice Aboussie, Justices B. A. Smith and Puryear

Affirmed

Filed: February 22, 2002

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