

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-10-00715-CR

Nilda Iliana Rodriguez, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 426TH JUDICIAL DISTRICT
NO. 65241, HONORABLE MARTHA J. TRUDO, JUDGE PRESIDING**

CONCURRING OPINION

The Court requested supplemental briefing on whether the evidence is sufficient to support appellant’s conviction. I would not have joined in that request had I been on the panel at that time. Appellant never argued sufficiency of the evidence in her original brief and therefore has not preserved this ground for appeal. *See* Tex. R. App. P. 38.1(f); *Rochelle v. State*, 791 S.W.2d 121, 124–25 (Tex. Crim. App. 1990) (“[S]tated policy of the rules [of appellate procedure is] that all matters be raised in the original brief.”). The Court’s request for additional briefing did not “grant or even impliedly grant a supplemental issue for review”; thus, this Court is not required to address the sufficiency of the evidence, and I believe it should decline to do so in this case. *See Garrett v. State*, 220 S.W.3d 927, 928–29 (Tex. Crim. App. 2007) (concluding that appellate court not required to address issues not raised in original brief, even when court requests supplemental briefing).

I concur in the majority's analysis of the issues raised in appellant's original brief and the judgment of the Court.¹

Scott K. Field, Justice

Before Chief Justice Jones, Justices Goodwin and Field

Filed: July 31, 2013

Publish

¹ I express no opinion about the sufficiency of the evidence.