



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0513-19

DUSTIN WADE HESTAND aka DUSTIN W. HESTAND, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SECOND COURT OF APPEALS
HOOD COUNTY**

Per curiam. YEARY, J., filed a dissenting opinion, in which SLAUGHTER, J., joined.

O P I N I O N

Appellant was convicted of possession of less than one gram of methamphetamine and sentenced to fifteen years' imprisonment. In a single issue on appeal, Appellant claimed that his punishment was improperly enhanced to a second degree felony based on an ineligible juvenile adjudication. The court of appeals affirmed, holding that Appellant failed to preserve this claim. Appellant petitioned this Court for discretionary review.

Appellant contends that no objection was required to preserve this error and he can raise an illegal sentence claim at any time. A court which has jurisdiction over a criminal conviction may always notice and correct an illegal sentence. *Mizell v. State*, 119 S.W.3d 804, 806 Tex. Crim. App. 2003). A sentence that is outside the maximum range of punishment is unauthorized by law and therefore illegal. *Ex parte Parrott*, 396 S.W.3d 531, 542 (Tex. Crim. App. 2013).

Appellant's brief on appeal argued an illegal sentence claim, asserting that his punishment was improperly enhanced because his juvenile adjudication could not be used to raise the punishment range to a second degree felony. The court of appeals did not address the merits of this claim.

Therefore, we grant ground Appellant's discretionary review, vacate the judgment of the Court of Appeals, and remand for that court to consider Appellant's issue on appeal.

Delivered: November 6, 2019

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