

**AFFIRMED; Opinion Filed May 25, 2016.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-15-01358-CR**

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**ANTHONY MARTINEZ, Appellant  
V.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the Criminal District Court No. 6  
Dallas County, Texas  
Trial Court Cause No. F-1459467-X**

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**MEMORANDUM OPINION**

Before Justices Myers, Stoddart, and Whitehill  
Opinion by Justice Stoddart

A jury convicted Anthony Martinez of possession with the intent to deliver a controlled substance of at least four grams but less than two hundred grams. The jury sentenced Martinez to sixty years' confinement. In a single issue, Martinez argues his sentence is an excessive and disproportionate punishment for the offense for which he was convicted. We affirm the trial court's judgment.

Constitutional rights, including the right to be free from cruel and unusual punishment, may be waived. An appellant is required to object in the trial court to preserve a challenge that his sentence is cruel and unusual for review. *See, e.g., Henson v. State*, No. 05-15-00986-CR, 2016 WL 1270207, at \*1 (Tex. App.—Dallas Mar. 31, 2016, no pet.) (citing *Rhoades v. State*, 934 S.W.2d 113, 120 (Tex. Crim. App. 1996)); *Kelley v. State*, No. 05-15-01155-CR, 2016 WL

1253591, at \*1 (Tex. App.—Dallas Mar. 30, 2016, no pet.); *Dukes v. State*, No. 05-15-00975-CR, 2016 WL 335798, at \*1 (Tex. App.—Dallas Jan. 27, 2016, no pet.). Additionally, punishment that is assessed within the statutory range for an offense is neither excessive nor unconstitutionally cruel or unusual. *Henson*, 2016 WL 1270207, at \*1 (citing *Kirk v. State*, 949 S.W.2d 769, 772 (Tex. App.—Dallas 1997, pet. ref'd); *Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984) (sentence will not be disturbed on appeal if it is within its statutory range of punishment)); *Kelley*, 2016 WL 1253591, at \*1; *Dukes*, 2016 WL 335798, at \*1.

Martinez concedes he did not raise a disproportionality complaint at trial or in his motion for new trial. He also concedes his sentence is within the statutory range for the offense for which he was convicted. After reviewing the record, we agree. We overrule Martinez' sole issue.

We affirm the trial court's judgment.

/Craig Stoddart/  
CRAIG STODDART  
JUSTICE

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TEX. R. APP. P. 47.2(b)  
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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

ANTHONY MARTINEZ, Appellant

No. 05-15-01358-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court

No. 6, Dallas County, Texas

Trial Court Cause No. F-1459467-X.

Opinion delivered by Justice Stoddart.

Justices Myers and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 25th day of May, 2016.