

**AFFIRMED; Opinion Filed October 4, 2016.**



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

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**No. 05-16-00040-CR**

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**FORREST LEE PYLE, Appellant  
V.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the 380th Judicial District Court  
Collin County, Texas  
Trial Court Cause No. 380-80337-08**

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**MEMORANDUM OPINION**

Before Justices Lang, Myers, and Evans  
Opinion by Justice Evans

Forrest Lee Pyle appeals his conviction, following adjudication of his guilt, for aggravated robbery. In a single issue, appellant contends the trial court committed reversible error by failing to grant his motion for continuance. We affirm the trial court's judgment.

Appellant waived a jury and pleaded guilty to aggravated robbery with a deadly weapon, a firearm. *See* TEX. PENAL CODE ANN. § 29.03(a)(2) (West 2011). The trial court deferred adjudicating guilt, placed appellant on seven years' community supervision, and assessed a \$2,500 fine. Between February 2010 and December 2014, the State filed petitions for final adjudication of guilt, but the trial court continued appellant on deferred community supervision. In April, 2015, the State filed its third petition for final adjudication, and filed an amended petition for final adjudication in September 2015, alleging appellant violated fifteen conditions of community supervision.

On December 9, 2015, the trial court held a hearing on the amended petition for final adjudication. At the beginning of the hearing, appellant said he did not feel he had enough time to consult with his attorney. Counsel stated he had discuss the amended petition to adjudicate with appellant twice “at the county jail,” and that appellant wanted to plead true to the “finances” and not true to the other allegations. Appellant complained that he wanted counsel to obtain documents that showed he completed some programs. Counsel stated he did not attempt to obtain the documents because appellant had said he had not completed the programs. The trial court told appellant that because appellant had had eight months since the petition to adjudicate was filed, three months since the amended petition was filed, and was on his third attorney, his request for continuance was denied. After hearing testimony, the trial court found true allegations eleven through fifteen and found not true allegations one through ten. The trial court adjudicated appellant guilty of aggravated robbery with a deadly weapon and assessed punishment at twenty-five years’ imprisonment.

Appellant contends the trial court committed reversible error when it failed to grant the continuance he had requested. Appellant asserts he should have been granted at least one additional day to prepare for the hearing because he was confused, he did not understand the proceedings, and he was harmed by the trial court’s errors. The State responds that appellant has not preserved this issue for appellate review and, alternatively, the trial court did not abuse its discretion in denying appellant’s request for more time.

The code of criminal procedure provides for a continuance in a criminal action only upon the filing of a written motion setting forth sufficient cause. TEX. CODE CRIM. PROC. ANN. art. 29.03 (West 2006). The motion must be sworn to “by a person having personal knowledge of the facts relied on for the continuance.” *Id.* art. 29.08. A motion for continuance that is not in writing and not sworn preserves nothing for review. *Dewberry v. State*, 4 S.W.3d 735, 755

(Tex. Crim. App. 1999); *see also* *Blackshear v. State*, 385 S.W.3d 589, 591 (Tex. Crim. App. 2012). Appellant's motion for continuance was not sworn or in writing. Accordingly, appellant failed to preserve this issue for appellate review. We overrule appellant's sole issue.

We affirm the trial court's judgment adjudicating guilt.

/David Evans/  
DAVID EVANS  
JUSTICE

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

**JUDGMENT**

FORREST LEE PYLE, Appellant

No. 05-16-00040-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 380th Judicial District  
Court, Collin County, Texas

Trial Court Cause No. 380-80337-08.

Opinion delivered by Justice Evans. Justices  
Lang and Myers participating.

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

Judgment entered this 4th day of October, 2016.