

Affirmed and Opinion Filed March 22, 2017



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

No. 05-16-00228-CR

**QUINTIN DEL ANGEL, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 7
Dallas County, Texas
Trial Court Cause No. F-1475784-Y**

MEMORANDUM OPINION

Before Justices Bridges, Myers, and Brown
Opinion by Justice Bridges

A jury convicted appellant Quintin Del Angel of continuous sexual assault of a child. Appellant agreed to thirty-five years' confinement. On appeal, he argues the trial court abused its discretion by allowing the complainant to speculate that appellant's wife witnessed the sexual abuse. We affirm.

The background of sexual abuse is known to the parties and because appellant has not challenged the sufficiency of the evidence, we will not provide details of the abuse except those necessary for disposition of this appeal. TEX. R. APP. P. 47.1.

Appellant lived in a three-bedroom home and as many as ten people slept there at a time, including complainant, who stayed with appellant while her mother worked at night. Complainant alleged appellant routinely sexually abused her. Several witnesses testified they

never saw any abuse and some testified it could not possibly have occurred within the tight living space.

During defense counsel's cross-examination of complainant, he asked her questions about the number of people sleeping in the house during the time appellant abused her. Counsel asked, " - - and none of them, as far as you know, said I saw something, right?" The following exchange then took place:

A. His wife told me - -

Q. You know --

[State]: Judge, I'm going to ask that he let her answer the question. He opened the door to it. He asked her if anyone said anything about - -

THE COURT: Okay. You may respond, ma'am.

A. That was when I knew someone knew. His wife told me to step off her man and leave him alone, so that meant she knew what was going on.

Q. Is that your testimony?

A. Yes.

Complainant testified on redirect that appellant's wife told her "to step off her man or quit doing what I was doing." The State followed up and asked, "So based on what the wife said to you, you feel like she saw something; is that fair?" Appellant objected that the question called for speculation, but the trial court overruled the objection because "She's a lay witness and she's allowed to give that opinion." When the State asked the question again, complainant agreed that based on what appellant's wife said to her, she felt the wife had seen the abuse.

In a single issue, appellant argues the trial court abused its discretion by allowing the complainant to speculate as to what his wife's statement to "step off her man" meant and that it was nothing more than complainant's conjecture that appellant's wife witnessed the sexual abuse. While appellant admits lay witness testimony is admissible, he argues complainant's

testimony was not (a) rationally based on her perception and (b) helpful to a clear understanding of the testimony or the determination of a fact issue. *See* TEX. R. EVID. 701. The State responds complainant’s testimony was not speculation. Alternatively, error, if any, was cured because the same evidence had already been elicited from complainant during defense’s cross-examination of her. We agree with the State.

It is well-established that “erroneously admitting evidence will not result in reversal when other such evidence was received without objection, either before or after the complained-of ruling.” *Coble v. State*, 330 S.W.3d 253, 282 (Tex. Crim. App. 2010) (quoting *Leday v. State*, 983 S.W.2d 713, 718 (Tex. Crim. App. 1998)); *Rivon v. State*, No. 05-10-01417-CR, 2012 WL 1130274, at *1 (Tex. App.—Dallas Apr. 5, 2012, pet. ref’d) (not designated for publication). Here, the complained-of testimony came in during cross-examination by the defense. Only when the State followed up with questions on redirect did appellant object. Because the jury heard the testimony without objection, error, if any, is harmless. *See* TEX. R. APP. P. 44.2(b); *Rivon*, 2012 WL 1130274, at *1. We overrule appellant’s issue.

The judgment of the trial court is affirmed.

/David L. Bridges/

DAVID L. BRIDGES
JUSTICE

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TEX. R. APP. P. 47
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

QUINTIN DEL ANGEL, Appellant

No. 05-16-00228-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 7, Dallas County, Texas

Trial Court Cause No. F-1475784-Y.

Opinion delivered by Justice Bridges.

Justices Myers and Brown participating.

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

Judgment entered March 22, 2017.