

Affirmed; Opinion Filed May 31, 2018.



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

No. 05-17-01257-CR

**EDDIE LEE SMITH, JR., Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 292nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. F-1775371-V**

MEMORANDUM OPINION

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

Eddie Lee Smith, Jr. was indicted for the offense of arson. He entered an open plea of guilty and, after receiving evidence, the trial court found appellant guilty and sentenced him to nine years' confinement. In a single issue, appellant argues there is an insufficient factual basis to support his plea. We affirm the trial court's judgment.

The indictment states that on or about February 26, 2017 in Dallas County, Texas, appellant "did then and there, with intent to damage and destroy a habitation, start a fire and cause an explosion by IGNITING AVAILABLE COMBUSTIBLE MATERIALS WITH A KNOWN OPEN FLAME DEVICE, A LIGHTER, knowing that said habitation" was in the City of Dallas, Texas. Appellant executed a judicial confession stating that on or about February 26, 2017, "I did then and there, with intent to damage and destroy a habitation, start a fire and cause an explosion,

by IGNITING AVAILABLE COMBUSTIBLE MATERIALS WITH A KNOWN OPEN FLAME DEVICE, A LIGHTER, knowing that said habitation” was within the City of Dallas. The judicial confession further states that a deadly weapon, fire, was used during the commission of the offense. Without objection, appellant’s signed judicial confession was admitted into evidence at the plea hearing.

In his sole issue, appellant argues there is an insufficient factual basis to support his plea. The State contends appellant’s judicial confession is sufficient evidence under article 1.15 of the code of criminal procedure to sustain a conviction upon a guilty plea. *See* TEX. CODE CRIM. PROC. ANN. art. 1.15. Article 1.15 provides that when a defendant pleads guilty, he cannot be convicted upon his plea alone without sufficient evidence to support the plea. *See id.*; *McGill v. State*, 200 S.W.3d 325, 330 (Tex. App.—Dallas 2006, no pet.); *Debusk v. State*, No. 05-16-00947-CR, 2017 WL 3275904, at *12 (Tex. App.—Dallas July 27, 2017, pet. ref’d) (mem. op., not designated for publication). A judicial confession, standing alone, constitutes sufficient evidence to support a guilty plea. *See Debusk*, 2017 WL 3275904, at *12 (citing *Dinnery v. State*, 592 S.W.2d 343, 353 (Tex. Crim. App. [Panel Op.] 1979) (op. on reh’g)); *see also Menefee v. State*, 287 S.W.3d 9, 13 (Tex. Crim. App. 2009).

Although appellant asserts some facts in the record are inconsistent with his conviction, his judicial confession embraces every essential element of the charged offense and is sufficient to support the plea. *See Menefee*, 287 S.W.3d at 13; *Debusk*, 2017 WL 3275904, at *12. Thus we conclude the State complied with article 1.15 by presenting sufficient evidence to support the judgment of guilt. *See* TEX. CODE CRIM. PROC. ANN. art. 1.15; *Debusk*, 2017 WL 3275904, at *12. A trial court is not obliged to sua sponte withdraw a defendant’s plea of guilt so long as the court fulfills its obligation to consider the evidence submitted even if evidence is adduced that reasonably and fairly raises an issue as to the defendant’s guilt. *Aldrich v. State*, 104 S.W.3d 890,

893 (Tex. Crim. App. 2003); *Debusk*, 2017 WL 3275904, at *12. We overrule appellant's 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

EDDIE LEE SMITH, JR., Appellant

No. 05-17-01257-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F-1775371-V.

Opinion delivered by Justice Stoddart.

Justices Lang and Myers participating.

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

Judgment entered this 31st day of May, 2018.