Affirmed as Modified and Opinion Filed December 28, 2018

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01291-CR
No. 05-18-00342-CR

BARRY CRAYTON, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 282nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F16-60313-S and F17-00647-S

MEMORANDUM OPINION

Before Justices Lang, Fillmore, and Schenck
Opinion by Justice Lang

After a jury trial, appellant Barry Crayton was convicted of aggravated robbery and evading arrest or detention with a motor vehicle. The trial court assessed punishment at fifteen years' confinement for aggravated robbery and two years' confinement for evading arrest or detention with a motor vehicle. In three issues, appellant asserts (1) there is insufficient evidence to support his conviction for aggravated robbery because the accomplice testimony was not sufficiently corroborated; (2) there is insufficient evidence to support appellant's conviction for evading arrest or detention with a motor vehicle; and (3) "[a]ppellant's right to a unanimous jury verdict was violated by the trial court's charge to the jury in the evading arrest or detention case, and [a]ppellant suffered egregious harm as a result." We affirm as modified.

I. FACTUAL AND PROCEDURAL CONTEXT

After being indicted for aggravated robbery and evading arrest or detention with a motor vehicle, appellant pleaded "not guilty" to the charges and "not true" to the allegations in the enhancement paragraphs.

At trial, the State presented eight witnesses. The first witness, Cassandra Rodriguez, testified that on December 10, 2016 she was helping a customer at the Foot Locker store on Webb Chapel Road in Dallas, Texas when she saw "three guys walking in." One of the men caught her eye because he was "in all black with a skeleton mask." The man in the mask told her to "give me the money." Rodriguez was struggling with the cash register, so she "screamed" for another employee, Daniela Perez, to help her open it. Perez also experienced difficulty with the register. The man in black said, "[I]f y'all don't hurry up I'm going to shoot y'all." Rodriguez stated she was in fear of bodily injury or death and that she said she "was about to pass out. I started seeing black spots and was just waiting for the bullet, sitting– thinking I wasn't going to say goodbye to my family."

Perez testified that she was also working at the Webb Chapel store when three masked men walked in the store. Perez saw one man point a gun at Rodriguez, he then told her to open the register. Perez and Rodriguez made eye contact, at which point Perez walked to the register and scanned a shoe as if she were making a sale so the register would open. She stepped outside of the store and "then the guy just grabbed all the money." Perez ran to her manager and told him "we just got robbed at gunpoint." She testified that the firearm made her feel "scared. Like it was– everything up to us." Perez thought she had to open the register, because if she did not "either he's gonna get really mad and either try to shoot at me or get really angry and just get frustrated and try to shoot one of us."

Officer Josh Conklin testified that on December 10th, 2016 he responded to the call "probably a minute or two" after it went out. Immediately after Conklin arrived at the Foot Locker,

a customer told him about the robbery. The customer said that two black males had "gone in, robbed the place." They ran behind the Foot Locker and got in a red, older model Ford Expedition. Conklin broadcasted over police radio the vehicle description and it's last known location. He spoke to the employees and watched the surveillance video to confirm the number and description of the suspects, passing that information on to the pursuing officers.

Senior Corporal Brian Mabry testified he was on duty when the call came in about the robbery. He was told that a suspect was driving a red Ford Expedition or a red SUV headed westbound on Northwest Highway. Mabry and Officer Joshua Lewis, who accompanied Mabry, identified the vehicle and attempted to detain it by activating the lights and sirens on their squad car. The squad car bore the words "Dallas Police" along its side. The red vehicle did not respond. The officers continued following it when, suddenly, the vehicle's back doors opened. The suspects jumped out of the vehicle and were chased by another unit. Dashcam video of the chase was shown at trial. The video showed a number of traffic violations, including appellant's failure to stop at stop signs. Appellant drove through a front yard, taking out a small tree. After approximately twenty minutes, appellant was successfully detained and taken into custody by another officer, Officer Clegg.

Officer Lewis testified that after appellant was apprehended, he searched the vehicle for weapons. He found a weapon on the right side of the driver's seat, and recovered, secured, and transported it to headquarters. Lewis testified that "as far as I remember, it was unloaded."

Officer Clegg testified that he pulled over on the side of the street and walked the area where the suspects were last seen. During the course of his investigation, Clegg saw "a bunch of loose money on the street." Additionally, a resident notified Clegg that he found a sweater in his front yard. Inside the sweater was a firearm. Clegg found appellant and took him to police headquarters.

Officer Sharla Dollins testified that she is employed by the Dallas Police Department in the Crime Scene Response Section. Her duties are to "respond to crime scenes," where she "photograph[s] the scenes, collect[s] any kind of physical evidence, package[s] it, processe[s] it, and sends it off to . . . the property room." During her investigation, Dollins visited several locations. First, she responded to the location where the sweater and firearm were found. She photographed the scene and collected the firearm at the site. Dollins identified the firearm as "loaded" and recorded its serial number before sending it off to the "Baylor Street property room." Next, she responded to the location where appellant's vehicle was stopped. She photographed the scene and "processed" the vehicle's contents, including the firearm found inside the vehicle, a skull mask in the back seat, and other miscellaneous clothing found in the back of the vehicle.

Juwan James, an accomplice, testified as the State's final witness. James, who served as the "lookout" in the robbery, agreed to testify in this case as part of his plea bargain agreement. James identified appellant in court and gave a chronological description of the events of the robbery. According to James, he was at his friend Eric Montgomery's apartment when Montgomery said he was going to rob the Foot Locker. The two walked outside of the apartment where they saw appellant and "Raymond," Montgomery's neighbor. Montgomery began talking to Raymond about the robbery and, according to James, "that's when they all agreed to it." The four men left the apartment complex in appellant's red Ford Explorer and headed to Foot Locker. They planned that appellant would drive, James would serve as lookout, and the other two men would commit the robbery. Appellant parked in the back of the Foot Locker, which, according to James, "felt like that was the smartest place to park to get away." Appellant waited in the car while the other three went inside to commit the robbery. After the robbery was committed, the three men ran out through the back door of the Foot Locker, climbed into appellant's car, and drove away. James testified that appellant was fully aware of what was happening. After "about four minutes,"

they saw a police car on the other side of the highway. Raymond instructed everyone to change clothes, which James and Montgomery did. Someone threw a bag of clothes out the window. Eventually Montgomery told appellant to stop the car. He did so briefly, and the three other men got out of the vehicle. After the State rested its case, appellant offered no witnesses.

The jury found appellant guilty of both charges. The trial court assessed punishment at fifteen years for aggravated robbery and two years for evading arrest or detention. Appellant filed notice of appeal in each cause with this Court.

II. SUFFICIENCY OF THE EVIDENCE

In issues one and two, appellant argues the evidence is insufficient to support conviction for the charged offenses.

A. Standard of Review

We review a challenge to the sufficiency of the evidence in the light most favorable to the verdict and determine whether a rational factfinder could have found all the elements of the offense beyond a reasonable doubt. *Wilson v. State*, 448 S.W.3d 418, 425 (Tex. Crim. App. 2014). "[T]he jury is the sole judge of the credibility of witnesses and the weight to be given to their testimonies, and the reviewing court must not usurp this role by substituting its own judgment for that of the jury." *Queeman v. State*, No. PD–0215–16, 2017 WL 2562799, at *3 (Tex. Crim. App. 2017) (citing *Montgomery v. State*, 369 S.W.3d 188, 192 (Tex. Crim. App. 2012)). "The duty of the reviewing court is simply to ensure that the evidence presented supports the jury's verdict and that the State has presented a legally sufficient case of the offense charged." *Id*. "We will uphold the verdict unless a rational factfinder must have had reasonable doubt with respect to any essential element of the offense." *Wilson*, 448 S.W.3d at 425. "Circumstantial evidence is as probative as direct evidence in establishing the guilt of an actor, and circumstantial evidence alone can be

sufficient to establish guilt." *Merritt v. State*, 368 S.W.3d 516, 525 (Tex. Crim. App. 2012) (quoting *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007)).

"[A]n inference is a conclusion reached by considering other facts and deducing a logical consequence from them." *Hooper*, 214 S.W.3d at 16. By contrast, "[s]peculation is mere theorizing or guessing about the possible meaning of facts and evidence presented." *Id*. Juries "are permitted to draw multiple reasonable inferences as long as each inference is supported by the evidence presented at trial" but "are not permitted to come to conclusions based on mere speculation or factually unsupported inferences or presumptions." *Winfrey v. State*, 393 S.W.3d 763, 771 (Tex. Crim. App. 2013); *see also Hooper*, 214 S.W.3d at 16–17. "When the reviewing court is faced with a record supporting contradicting inferences, the court must presume that the jury resolved any such conflicts in favor of the verdict, even if not explicitly stated in the record." *Queeman*, 2017 WL 2562799, at *3; see also *Merritt*, 368 S.W.3d at 526 (citing *Jackson*, 443 U.S. at 326).

B. Aggravated Robbery

In his first issue, appellant argues the evidence is insufficient to support his conviction for aggravated robbery because the testimony provided by James, an accomplice witness, was not sufficiently corroborated. The State responds that the evidence is sufficient to show appellant is guilty as a party to the aggravated robbery.

i. Applicable Law

A person commits aggravated robbery if he uses or exhibits a deadly weapon in the course of a robbery. TEX. PENAL CODE ANN. § 29.03(A)(2). A person commits robbery if, in the course of committing theft and with intent to obtain or maintain control of the property, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death. *Id*. In the "course of committing theft" means "conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft." *Id*. 29.01(1). A

person commits theft if he unlawfully appropriates property with intent to deprive the owner of it. *Id*. § 31.03(A). Appropriation is unlawful if it is without the owner's effective consent. *Id*. § 31.03(B)(1).

Under the Texas Penal Code, "[a] party is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both." *Id*. § 7.01(A). Further, a person is criminally responsible for an offense committed by the conduct of another if, "acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense." *Id.* § 7.02(a).

Under the law of parties, "if the evidence is sufficient to support appellant's conviction as a party under either section 7.02(a)(2) or 7.02(b), we must uphold the conviction." *Smith v. State*, 187 S.W.3d 186, 191 (Tex. App.—Fort Worth 2006, pet. ref'd) (citing *Swearingen v. State*, 101 S.W.3d 89, 95 (Tex. Crim. App. 2003) and *Rabbani v. State*, 847 S.W.2d 555, 558 (Tex. Crim. App. 1992)).

"In reviewing the sufficiency of the evidence to support appellant's participation as a party, we may consider 'events occurring before, during and after the commission of the offense, and may rely on actions of the defendant which show an understanding and common design to do the prohibited act.'" *King v. State*, 29 S.W.3d 556, 564 (Tex. Crim. App. 2000) (quoting *Ransom v. State*, 920 S.W.2d 288, 302 (Tex. Crim. App. 1996) (op. on reh'g)). Actions may be "shown by direct or circumstantial evidence" to establish a "common design." *Leadon v. State*, 332 S.W.3d 600, 606 (Tex. App.—Houston [1st] 2010, no pet.) (citing *Miller v. State*, 83 S.W.3d 308, 314 (Tex. App.—Austin 2002, pet. ref'd)); *see Williams v. State*, No. 05–14–00790–CR, 2016 WL 355115, at *6 (Tex. App.—Dallas Jan. 28, 2016, no pet.) (mem. op., not designated for publication). Though mere presence at the scene of the offense is "not alone sufficient to support

a conviction," it is "'a circumstance tending to prove guilt which, combined with other facts, may suffice to show that the accused was a participant.'" *Leadon,* 332 S.W.3d at 606 (quoting *Valdez v. State*, 623 S.W.2d 317, 321 (Tex. Crim. App. [Panel Op.] 1981) (op. on reh'g)).

To support a conviction based on the testimony of an accomplice, there must be corroborating evidence that tends to connect the defendant with the offense. *See* TEX. CODE CRIM. PROC. ANN. art. 38.14. Corroboration is not sufficient if it merely shows the offense was committed. *Id.* In making our review, we eliminate all of the accomplice testimony from consideration and then examine the remaining portions of the record to see if there is any evidence that tends to connect the accused with the commission of the offense. *Medrano v. State*, 421 S.W.3d 869, 883 (Tex. App.—Dallas 2014) (citing *Castillo v. State,* 221 S.W.3d 689, 691 (Tex. Crim. App. 2007)).

The corroborating evidence need not be sufficient by itself to establish guilt; there simply needs to be "other" evidence "tending to connect" the defendant to the offense alleged in the indictment. *Id.* It may confirm a "mere detail" rather than the elements of the offense. *Medrano*, 421 S.W.3d at 883 (citing *Lee v. State,* 29 S.W.3d 570, 577 (Tex. App.—Dallas 2000, no pet.). Even "apparently insignificant incriminating circumstances" may provide sufficient corroboration. *Medrano*, 421 S.W.3d at 883 (citing *Trevino v. State,* 991 S.W.2d 849, 852 (Tex. Crim. App. 1999)). We look at the particular facts and circumstances of each case and consider the combined force of all the non-accomplice evidence that tends to connect the accused to the offense. *Medrano*, 421 S.W.3d at 883 (citing *Smith v. State,* 332 S.W.3d 425, 442 (Tex. Crim. App. 2011)). Judicial experience shows that no precise rule can be formulated as to the amount of the evidence that is required to corroborate the testimony of an accomplice. *Medrano*, 421 S.W.3d at 883 (citing *Gill v. State,* 873 S.W.2d 45, 48 (Tex. Crim. App.1994)).

ii. Application of Law to the Facts

Appellant argues the "evidentiary basis of [the State's closing] argument is supplied entirely by Juwan James." Appellant contends, "None of the non-accomplice evidence even proved that appellant was at or near the scene of the aggravated robbery; none of the other witnesses claimed to see him arrive at or depart from the parking lot outside the Foot Locker where he supposedly waited in his car while Juwan, Eric and Raymond committed the aggravated robbery." Further, appellant asserts that "any evidence that appellant evaded arrest was not connected to the aggravated robbery." However, appellant concedes James offered evidence to appellant's involvement in the robbery, which would make him criminally responsible. Appellant states "the non-accomplice evidence substantially corroborated much of Juwan James's testimony without connecting appellant to the offense committed." We cannot agree with appellant.

Photos taken by Officer Dollins, as well as the physical evidence she documented and "processed," corroborates James' testimony that appellant was a party to the robbery. Included in the photos are images of (1) loose cash visibly spread out in appellant's car, (2) a "skeleton mask," (3) other various items of clothing, and (4) a firearm, all of which were found in appellant's vehicle immediately after he was arrested. This evidence corroborates James' testimony that the men involved in the robbery were in appellant's car after robbing the Foot Locker and taking the cash from the register. It also corroborates that the robbers changed clothes in the car before jumping out in an attempt to escape. Non-accomplice evidence must "tend to connect" appellant to the crime. *See Hernandez*, 939 S.W.2d at 173, 178–79.

In addition to the physical evidence, other corroborating evidence exists. Extensive testimony at trial from Rodriguez, who testified a robber wore a skeleton mask, Perez, who testified a robber took cash from register and was armed, Officers Conklin and Mabry who testified about appellant's failure to stop. Furthermore, Officer Conklin testified that a witness told him that two black males committed the robbery and that the robbers ran behind the Foot Locker and took off

in a red Ford Expedition. This corroborates James' testimony that appellant, who drove a red Ford Expedition, parked in the back of the Foot Locker, which, according to James, "felt like that was the smartest place to park to get away." It also corroborates James' statement that appellant waited in the car while the other three committed the robbery. Finally, there was dash cam video evidence of the chase which resulted in appellant's arrest. This evidence is sufficient to meet the "mere detail" needed to reach the "tending to connect" standard.

Disregarding James' testimony, we conclude there was sufficient evidence tending to connect appellant as a party to the offense. Further, when we consider all of the evidence, including James' testimony, we conclude the evidence is sufficient to establish appellant is criminally responsible for aggravated robbery. We decide against appellant on his first issue.

C. Evading Arrest or Detention with a Motor Vehicle

In his second issue, appellant argues the evidence is insufficient to support his conviction for evading arrest or detention with a motor vehicle. Specifically, he contends there is no evidence appellant knew Mabry was a police officer when Mabry tried to detain him. The State responds that the evidence is sufficient because the record shows Mabry was driving a marked police car and pursued appellant with his siren and flashing lights activated for approximately twenty minutes.

i. Applicable Law

Section 38.04(a) of the Texas Penal Code provides that "[a] person commits an offense if he intentionally flees from a person he knows is a peace officer or federal special investigator attempting lawfully to arrest or detain him." TEX. PENAL CODE §38.04(a). The offense is a third-degree felony if the actor uses a vehicle while in flight. *Id.* § 38.04(b)(2)(a). The State must show defendant knew the person was a peace officer or federal special investigator attempting to arrest or detain him. *See Jackson v. State*, 718 S.W.2d 724, 726 (Tex. Crim. App. 1986).

ii. Application of Law to the Facts

We consider the following to determine the sufficiency of the evidence. At trial, Officer Mabry testified he and Officer Lewis received information the suspect was driving a red Ford Expedition or a red SUV. After they "spotted the vehicle," the officers tried to detain appellant by activating the squad car's red and blue flashing lights and siren. The officers drove a squad car marked with the words "Dallas Police" along the side. After they followed the car for some time, the back doors opened. Three men jumped out. Mabry and Lewis followed the men in their squad car while other officers chased them on foot. The chase progressed through a residential area. A number of traffic violations were observed, including appellant's failure to stop at stop signs. Video evidence introduced at trial shows appellant driving through a front yard, close to the front of a house, and "taking out" a small tree. After approximately twenty minutes appellant's vehicle was stopped and he was taken into custody.

On this record, we decide against appellant on his second issue.

III. JURY CHARGE

In his third issue, appellant claims the jury charge was erroneous because it allowed for a non-unanimous verdict.

We review alleged jury charge error in two steps. *Kirsch v. State*, 357 S.W.3d 645, 649 (Tex. Crim. App. 2012). First, we determine whether error exists in the charge. *Id*. Second, if charge error exists, we review the record to determine whether the error caused sufficient harm to warrant reversal. *Ngo v. State*, 175 S.W.3d 738, 743–44 (Tex. Crim. App. 2005). Where, as here, the defendant did not raise a timely objection to the jury instructions, "reversal is required only if the error was fundamental in the sense that it was so egregious and created such harm that the defendant was deprived of a fair and impartial trial." *Villarreal v. State*, 453 S.W.3d 429, 433 (Tex. Crim. App. 2015). Error is egregiously harmful if it "affect[s] the very basis of the case, deprive[s]

the defendant of a valuable right, or vitally affect[s] a defensive theory." *Nava v. State*, 415 S.W.3d 289, 298 (Tex. Crim. App. 2013). When analyzing harm, we consider "the entire jury charge, the state of the evidence, including the contested issues and weight of probative evidence, the argument of counsel and any other relevant information revealed by the record of the trial as a whole." *Almanza v. State*, 686 S.W.2d 157, 171 (Tex. Crim. App. 1984). Egregious harm is a "high and difficult standard which must be borne out by the trial record." *Young v. State*, 283 S.W.3d 854, 880 (Tex. Crim. App. 2009). The defendant must have suffered "actual rather than theoretical harm." *Cosio v. State*, 353 S.W.3d 766, 777 (Tex. Crim. App. 2011).

Texas law requires that a jury reach a unanimous verdict about the specific crime that the defendant committed. *Cosio*, 353 S.W.3d at 771. This means the jury must "agree upon a single and discrete incident that would constitute the commission of the offense alleged." *Stuhler v. State*, 218 S.W.3d 706, 717 (Tex. Crim. App. 2007). There are several ways in which non-unanimity issues arise. The Texas Court of Criminal Appeals has recognized three variations that may result in non-unanimous verdicts as to a particular incident of criminal conduct that comprises the charged offense. *Cosio*, 353 S.W.3d at 771.

First, non-unanimity may occur when the State presents evidence demonstrating the repetition of the same criminal conduct, but the actual results of the conduct differ. *Id.* Second, non-unanimity may occur when the State charges one offense and presents evidence that the defendant committed the charged offense on multiple but separate occasions. *Id*. at 772. And third, non-unanimity may occur when the State charges one offense and presents evidence of an offense, committed at a different time, that violated a different provision of the same criminal statute. To ensure unanimity in this situation, the charge would need to instruct the jury that it has to be unanimous about which statutory provision, among those available based on the facts, the defendant violated. *Id*.

The facts in this case do not fall within the scope of the any of these categories. Section 38.04 of the penal code provides in pertinent part that it is an offense if a person "intentionally flees from a person he knows is a peace officer . . . attempting lawfully to arrest or detain him." TEX. PENAL CODE ANN. § 38.04(a). Section 38.04(a) does not provide for other manners or means or separate acts to define an offense. *Id*.

Here, the jury charge correctly instructed the jury that:

> a person commits the offense of Evading Arrest or Detention - Vehicle if he intentionally flees from a person he knows is a peace officer or federal special investigator attempting to lawfully arrest or detain him and the person uses a vehicle while the actor is in flight.

The application paragraph provided:

> Now, if you find from the evidence beyond a reasonable doubt that on or about December 10th, 2016, in Dallas County, Texas, the defendant, BARRY CRAYTON, did then and there intentionally flee from R. MARBY, hereinafter called complainant, while complainant was lawfully attempting to arrest or detain the defendant, and the said defendant knew that said complainant was a peace officer or federal special investigator attempting to arrest or detain the said defendant, and further, defendant did use a vehicle while in the flight from the said officer or investigator, then you will find the defendant guilty of Evading Arrest or Detention- Vehicle as charged in the indictment. Unless you so find, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."
> If you find from the evidence beyond a reasonable doubt that the defendant is guilty of Evading Arrest or Detention - Vehicle, you shall next go on to consider whether or not the defendant used or exhibited a deadly weapon in the commission of the offense, if any, for which you have found the defendant guilty.
> Now, if you unanimously find from the evidence beyond a reasonable doubt that the defendant used or exhibited a deadly weapon, namely, a motor vehicle, during the commission of the offense or during the immediate flight following the commission of the offense, then you shall so state in your verdict.
> If you do not so find, or if you have a reasonable doubt, you shall make a negative finding in your verdict.

Thus, the jury charge instructed the jury to convict appellant if it found he had evaded Officer Mabry. Whether Officer Mabry intended to arrest or detain appellant does not create a different or repetitious offense under the statute. Appellant's act of fleeing constitutes one discrete act

committed on one occasion. Under these facts, no "unanimity" issue exists and there is no jury charge error. We reject appellant's third issue.

IV. MODIFICATION OF JUDGMENT

In a cross point, the State has requested this Court reform the judgments to (1) reflect the jury's deadly weapon findings and (2) reflect appellant's plea to the enhancement paragraph.

I. Applicable Law

This court may modify the trial court's judgment and affirm it as modified. *See* TEX. R. APP. P. 43.2(B); *Bigley v. State,* 865 S.W.2d 26 (Tex. Crim. App. 1993). This Court "has the power to correct and reform the judgment of the court below to make the record speak the truth when it has the necessary data and information to do so." *Asberry v. State*, 813 S.W.2d 526, 529 (Tex. App.—Dallas 1991, pet. ref'd). Appellate courts may reform trial court judgments where "the evidence necessary to correct the judgment appears in the record." *Id.*

iii. Application of Law to the Facts

In cause number F16-60313-S, the jury's verdict incorporated a finding that appellant used or exhibited a firearm during the commission of the offense. Under Texas law, a firearm is a deadly weapon. TEX. PENAL CODE ANN. § 1.07(a)(17)(A). In cause number F17-00647-S, the jury verdict incorporated a finding that Appellant used or exhibited a deadly weapon, a motor vehicle. In each judgment, the "Findings on Deadly Weapon" section currently reads "N/A." We modify the trial court's judgments to reflect the use of a deadly weapon in each case. Accordingly, for cause number F16-60313-S we strike the word "N/A" and insert the phrase "Yes, a firearm." For cause number F17-00647-S we strike the word "N/A" and insert the phrase "Yes, a motor vehicle."

Appellant pleaded "not true" to the single prior conviction enhancement paragraph in each indictment. Presently, the "Plea to 1st Enhancement Paragraph" section in each judgment says "True." We modify that section of each judgement to correctly reflect that appellant pleaded "not

true." Additionally, we modify the "2nd Enhancement/Habitual Paragraph" plea and findings sections by striking the word "True" from each and inserting "N/A."

V. CONCLUSION

We decide appellant's three issues against him and affirm the trial court's judgments as modified.

/Douglas S. Lang/
DOUGLAS S. LANG
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

BARRY CRAYTON, Appellant	On Appeal from the 282nd Judicial District Court, Dallas County, Texas
No. 05-17-01291-CR V.	Trial Court Cause No. F-1660313-S.
THE STATE OF TEXAS, Appellee	Opinion delivered by Justice Lang. Justices Fillmore and Schenck participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to reflect the jury's deadly weapon findings and to reflect appellant's plea to the enhancement paragraph.

As modified, we **AFFIRM** the trial court's judgment.

Judgment entered this 28 day of December 2018.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

BARRY CRAYTON, Appellant	On Appeal from the 282nd Judicial District Court, Dallas County, Texas
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THE STATE OF TEXAS, Appellee	Opinion delivered by Justice Lang. Justices Fillmore and Schenck participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to reflect the jury's deadly weapon findings and to reflect appellant's plea to the enhancement paragraph.

As modified, we **AFFIRM** the trial court's judgment.

Judgment entered this 28 day of December 2018.