

**Affirmed; Opinion Filed November 5, 2020**



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

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**No. 05-19-01034-CR**

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**TAYLOR YANCY BERG, Appellant  
v.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the 265th Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. F18-75212-R**

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**MEMORANDUM OPINION**

Before Justices Molberg, Carlyle, and Browning  
Opinion by Justice Carlyle

Following appellant Taylor Yancy Berg's open plea of guilty to sexual assault of a child, the trial court sentenced him to eight years' imprisonment. On appeal, Mr. Berg contends his punishment violates the Texas Penal Code's objectives. We affirm in this memorandum opinion. *See* TEX. R. APP. P. 47.4.

In 2017, thirty-five-year-old Mr. Berg moved to Texas and reconnected with a Dallas-area cousin and the cousin's fifteen-year-old daughter, R.D. After Mr. Berg visited their home several times, a friend of Mr. Berg told R.D.'s father that Mr. Berg was having sex with R.D. R.D.'s father called the police.

At the punishment hearing, Mr. Berg testified that during his “relationship” with R.D., he “recognize[d] that it was wrong.” He stated he was “in question about” his mental health and “sought out a psychiatrist” but could not afford treatment. On cross-examination, he acknowledged he has prior convictions for “aggravated stalking” of a minor, driving while intoxicated, and public intoxication. During closing, defense counsel asked the trial court to grant Mr. Berg probation and “have him analyze[d] and perhaps treated for whatever it is that prompts him to do these things.”<sup>1</sup>

In his appellate issue, Mr. Berg contends the trial court abused its discretion because his imprisonment “violates the objectives of the system of prohibitions, penalties, and correctional measures in the Penal Code.” We disagree. Mr. Berg’s sentence is in the bottom half of the statutorily authorized range for his second-degree-felony offense—not more than twenty years or less than two years. *See* TEX. PENAL CODE § 12.33. Though he asserts that “ostensibly, there are numerous defendants currently on probation for the same offenses . . . as well as other offenses with circumstances much worse,” he directs us to no evidence or similar cases for comparative evaluation. *See State v. Simpson*, 488 S.W.3d 318, 323 (Tex. Crim.

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<sup>1</sup> Following the trial court’s punishment assessment, the trial court asked, “Is there any legal reason why sentence should not be imposed?” Defense counsel answered, “No reason, Your Honor.” Though the State contends on appeal that Mr. Berg did not preserve his improper-punishment complaint for appellate review, we assume without deciding that his issue was preserved.

App. 2016); *Simmons v. State*, 944 S.W.2d 11, 15 (Tex. App.—Tyler 1996, pet. ref'd).

We conclude the trial court did not abuse its discretion by imposing the complained-of sentence and affirm the trial court's judgment. *See Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984); *Nunez v. State*, 565 S.W.2d 536, 538 (Tex. Crim. App. 1978); *Foster v. State*, 525 S.W.3d 898, 911 (Tex. App.—Dallas 2017, pet. ref'd); *see also* TEX. PENAL CODE § 1.02(1)–(6) (describing penal code objectives of public safety and deterrence in addition to rehabilitation).

/Cory L. Carlyle/  
CORY L. CARLYLE  
JUSTICE

Do Not Publish  
TEX. R. APP. P. 47.2(b)  
191034F.U05



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

**JUDGMENT**

TAYLOR YANCY BERG,  
Appellant

No. 05-19-01034-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 265th Judicial  
District Court, Dallas County, Texas  
Trial Court Cause No. F18-75212-R.  
Opinion delivered by Justice Carlyle.  
Justices Molberg and Browning  
participating.

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

Judgment entered this 5th day of November, 2020.