

Affirm and Opinion Filed October 26, 2021



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

No. 05-20-00861-CR

No. 05-20-00862-CR

RAYAN DHANES GANESH, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 282nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F16-76113-S & F16-76111-S**

MEMORANDUM OPINION

Before Justices Myers, Partida-Kipness, and Carlyle
Opinion by Justice Carlyle

A jury convicted appellant Rayan Dhanes Ganesh of two counts of indecency with a child. The trial court assessed punishment at eight years' imprisonment in each case, to run concurrently. Several months later, the trial court granted Mr. Ganesh's request for "shock probation" community supervision and placed him on ten years' probation. *See* TEX. CODE CRIM. PROC. art. 42A.202.

The State later moved to revoke probation in both cases. Mr. Ganesh pleaded not true to the State's allegations. Following a hearing, the trial court granted the State's motions and sentenced Mr. Ganesh to eight years' imprisonment.

Mr. Ganesh contends his sentence violates his rights under the United States and Texas constitutions because “the sentence is grossly disproportionate to the crime and inappropriate to the offender.” He also asserts this Court should reform the judgments in both cases to accurately reflect his plea of not true to the motions to revoke probation. We affirm the trial court’s judgments as modified in this memorandum opinion. *See* TEX. R. APP. P. 47.4.

To preserve error for appellate review, the record must show the party complaining on appeal made a timely objection that “stated the grounds for the ruling that the complaining party sought from the trial court with sufficient specificity to make the trial court aware of the complaint.” TEX. R. APP. P. 33.1(a)(1). This prerequisite applies to a constitutional complaint about an allegedly disproportionate or cruel and unusual sentence. *Williams v. State*, No. 05-20-00593-CR, 2021 WL 3782080, at *3 (Tex. App.—Dallas Aug. 26, 2021, no pet.) (mem. op., not designated for publication) (citing *Rhoades v. State*, 934 S.W.2d 113, 120 (Tex. Crim. App. 1996); *Castaneda v. State*, 135 S.W.3d 719, 723 (Tex. App.—Dallas 2003, no pet.)).

Here, the record does not show Mr. Ganesh objected to his punishment at trial. After assessing punishment, the trial court asked, “[I]s there any legal reason why sentence should not be imposed?” Defense counsel stated, “No, Your Honor.” Though Mr. Ganesh filed a motion for new trial regarding both cases, his motion stated only that he “contends his conviction was contrary to the law and evidence.” By not objecting to his sentence at the time it was imposed or in his motion for new

trial, Mr. Ganesh failed to preserve his punishment complaints for appellate review.
Id.

We may reform the trial court's judgment to make the record speak the truth when we have the necessary information to do so. TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993) (en banc); *Asberry v. State*, 813 S.W.2d 526, 529 (Tex. App.—Dallas 1991, pet. ref'd) (en banc). Here, the record shows Mr. Ganesh pleaded not true to the State's motions to revoke probation. The State agrees the trial court's judgments should be modified as Mr. Ganesh requests. Because we have the necessary information before us to do so, we modify the judgments in both cases to state that Mr. Ganesh pleaded not true to the State's motions to revoke probation.

We affirm the trial court's judgments as modified.

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TEX. R. APP. P. 47.2

/Cory L. Carlyle/

CORY L. CARLYLE
JUSTICE



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

JUDGMENT

RAYAN DHANES GANESH,
Appellant

No. 05-20-00861-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 282nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F16-76113-S.
Opinion delivered by Justice Carlyle.
Justices Myers and Partida-Kipness
participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to state that appellant Rayan Dhanes Ganesh pleaded not true to the State's motion to revoke probation.

As **MODIFIED**, the judgment is **AFFIRMED**.

Judgment entered this 26th day of October, 2021.



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

JUDGMENT

RAYAN DHANES GANESH,
Appellant

No. 05-20-00862-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 282nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F16-76111-S.
Opinion delivered by Justice Carlyle.
Justices Myers and Partida-Kipness
participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to state that appellant Rayan Dhanes Ganesh pleaded not true to the State's motion to revoke probation.

As **MODIFIED**, the judgment is **AFFIRMED**.

Judgment entered this 26th day of October, 2021.