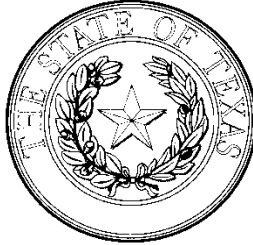


Opinion issued August 12, 2010.



In The
Court of Appeals
For The
First District of Texas

NO. 01-08-00704-CR

MARCO ANTONIO SANCHEZ, Appellant
V.
STATE OF TEXAS, Appellee

On Appeal from the 182nd District Court
Harris County, Texas
Trial Court Case No. 1136294

MEMORANDUM OPINION

Marco Antonio Sanchez pled guilty to the state jail felony of theft without entering into a plea agreement with the State. *See* TEX. PENAL CODE ANN. § 31.03(a) (Vernon Supp. 2009). The trial court ordered a pre-sentencing investigation (PSI) and, after receiving the report, sentenced Sanchez to nine

months' confinement. In his sole issue on appeal, Sanchez contends that the evidence is legally insufficient to support his guilty plea. Finding the evidence sufficient as a matter of law, we affirm.

BACKGROUND

Before entering his guilty plea, Sanchez signed a "Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession." The contents of this document pertinent to Sanchez's appeal read:

In open court and prior to entering my plea, I waive the right of trial by jury. I also waive the appearance, confrontation, and cross-examination of witnesses, and my right against self-incrimination. The charges against me allege that in Harris County, Texas, MARCO ANTONIO SANCHEZ . . . on or about OCTOBER 4, 2007, did then and there unlawfully, appropriate, by acquiring and otherwise exercising control over property, namely, A WATCH owned by PEDRO MARTINEZ . . . of the value of over one thousand five hundred dollars and under twenty thousand dollars, with the intent to deprive [Martinez] of the property.

. . . .

I understand the above allegations and I confess they are true

I consent to the oral and written stipulation of evidence in this case and to the introduction of affidavits, written statements of witnesses, and other documentary evidence.

In the "Admonishments" portion of the document, Sanchez initialed the paragraphs advising him that he was charged with theft and of the applicable punishment range. In the "Statements and Waivers of Defendant" portion, Sanchez initialed

beside the paragraph noting his waivers of the right to have the trial court orally admonish him and the right to have a court reporter record his plea.

The trial court's judgment recites that "[t]he Court received the plea and entered it of record. Having heard the evidence submitted, the Court found the Defendant guilty of the offense"

DISCUSSION

Sanchez's challenge to the legal sufficiency of the evidence supporting his conviction rests on his claim that the record fails to show that the trial court entered his guilty plea into evidence or took judicial notice of the plea, and the evidence introduced in the sentencing hearing shows only that he stole money, not the watch charged in the indictment.

Under article 1.15 of the Texas Code of Criminal Procedure, the State must offer sufficient proof to support any judgment based on a guilty or no contest plea in a felony case tried to the court. TEX. CODE CRIM. PROC. ANN. art. 1.15 (Vernon 2005); *Ex parte Williams*, 703 S.W.2d 674, 678 (Tex. Crim. App. 1986); *see Menefee v. State*, 287 S.W.3d 9, 14 (Tex. Crim. App. 2009). The State must "introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for its judgment and in no event shall a person charged be convicted upon his plea without sufficient evidence to support the same." TEX. CODE CRIM. PROC. ANN. art. 1.15. A defendant who

pleads guilty does not need to admit the truth of the evidence to which he stipulates, but if he does, the court will consider the stipulation to be a judicial confession. *State v. Stone*, 919 S.W.2d 424, 426 (Tex. Crim. App. 1996); *Barnes v. State*, 103 S.W.3d 494, 497 (Tex. App.—San Antonio 2003, no pet.). Accordingly, when the defendant has entered a guilty plea in the trial court, our review is limited to determining whether sufficient evidence supports the judgment of guilt under article 1.15 of the Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. ANN. art. 1.15.¹

The evidence required by article 1.15 may be stipulated if the defendant consents in writing, in open court, to waive the appearance, the confrontation, and cross-examination of witnesses and further consents to the oral and written stipulation of evidence and to the introduction of affidavits, written statements of witnesses, and any other documentary evidence. *See id.* The Agreement to Stipulate and Judicial Confession that Sanchez executed thus satisfies the statutory evidence requirement. *See* TEX. CODE CRIM. PROC. ANN. art. 1.15; *Keller v. State*, 125 S.W.3d 600, 605–06 (Tex. App.—Houston [1st Dist] 2003, pet. dism'd). The recitations in the judgment that the State introduced evidence of Sanchez's guilt

¹ A defendant in a noncapital case may waive any rights secured him by law. *See* TEX. CODE CRIM. PROC. ANN. art. 1.14(a) (Vernon 2005). Among other things, Sanchez waived his right to have a court reporter record the proceedings. That waiver is reason enough to reject Sanchez's evidentiary sufficiency challenge. *See Williams v. State*, 950 S.W.2d 383, 385 (Tex. App.—Houston [1st Dist.] 1997, pet. ref'd).

after he entered his guilty plea, in the absence of direct proof to the contrary, also confirms that the State satisfied article 1.15's evidentiary requirement. *See Schultz v. State*, 510 S.W.2d 940, 942 (Tex. Crim. App. 1974). We hold that Sanchez's stipulation of guilt and judicial confession provide sufficient evidentiary support for the judgment.

CONCLUSION

The evidence is legally sufficient to support Sanchez's guilty plea. We therefore affirm the judgment of the trial court.

Jane Bland
Justice

Panel consists of Chief Justice Radack and Justices Bland and Sharp.

Do not publish. TEX. R. APP. P. 47.2(b).