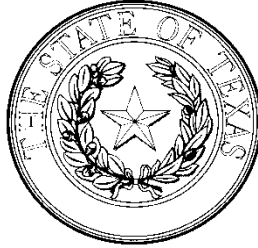


Opinion issued April 10, 2018



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00775-CR

JAMAL JOYNER, Appellant
V.
THE STATE OF TEXAS, Appellee

**On Appeal from the 176th District Court
Harris County, Texas
Trial Court Case No. 1358039**

CONCURRING OPINION

I agree with the majority that appellant, Jamal Joyner, has failed to preserve his first issue, in which he complains of “prosecutorial misconduct,” for appellate review. Thus, I would also overrule his second issue in which he contends that he preserved the issue.

In his third issue, appellant alternatively argues that he “is not required to show harm and reversal should issue from this Court” because the State’s “breach” of its plea agreement with him constitutes “structural error.” Appellant’s argument is premised on his assertion that the State in fact breached its plea agreement with him. Here, there is simply no evidence in the record to support appellant’s bald assertion. For this reason standing alone, I would overrule appellant’s third issue.

In sum, there is much less to this case than meets the eye, and I concur only in the judgment of the Court.

Terry Jennings
Justice

Panel consists of Justices Jennings, Massengale, and Caughey.

Jennings, J., concurring in judgment only.

Publish. TEX. R. APP. P. 47.2(b).