

Affirmed and Memorandum Majority and Concurring Opinions filed August 1, 2023.



In The

Fourteenth Court of Appeals

NO. 14-22-00007-CR

DARRELL WAYNE HOLMES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 434th Judicial District Court
Fort Bend County, Texas
Trial Court Cause No. 18-DCR-082773**

MEMORANDUM CONCURRING OPINION

On appeal, the State argues appellant did not preserve a complaint for appellate review regarding the sergeant's response, "No, I didn't think that his actions were justified under the law." Appellant's issue on appeal is the trial court erred by admitting impermissible lay-witness opinion testimony under Texas Rule of Evidence 701(a). Tex. R. Evid. 701(a).

At trial, appellant's objection was that the sergeant's response was a legal conclusion.

I agree that the complaint on appeal was not preserved. Tex. R. App. P. 33.1(a). While I concur in the judgment, I do not join in the court's opinion on harm in issue one.

/s/ Charles A. Spain
Justice

Panel consists of Chief Justice Christopher and Justices Jewell and Spain (Christopher, C.J., majority).

Do Not Publish — Tex. R. App. P. 47.2(b).