In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-09-00418-CR

BRIAN CARL VEAZIE a/k/a BRIAN KARL BEAZIE a/k/a BRIAN VEAZIE, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 99696

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, appellant Brian Carl Veazie a/k/a Brian Karl Beazie a/k/a Brian Veazie pled guilty to aggravated assault. The trial court found the evidence sufficient to find Veazie guilty, but deferred further proceedings, placed Veazie on community supervision for ten years, and assessed a fine of $500. The State subsequently filed a motion to revoke Veazie's unadjudicated community supervision. Veazie pled "true" to two of the alleged violations of the terms of his community supervision. The trial court found that Veazie violated the conditions of his community

supervision, found him guilty of aggravated assault, and assessed punishment at seventy-five years of confinement.[1] Veazie then filed this appeal, in which his sole contention is that the trial court's assessment of the "maximum" punishment was cruel and unusual. *See* U.S. CONST. amend. VIII; TEX. CONST. art. I, § 13; TEX. CODE CRIM. PROC. ANN. art. 1.09 (Vernon 2005). We affirm the trial court's judgment.

The record does not reflect that Veazie raised his complaint in the trial court. *See* TEX. R. APP. P. 33.1(a). However, even if Veazie had preserved the issue for our review, Veazie's argument would still fail. Veazie's sentence is within the statutorily-authorized range of punishment. *See* TEX. PEN. CODE ANN. § 22.02(b) (Vernon Supp. 2009) (setting aggravated assault as a second-degree felony); *id.* § 12.42(b) ("[I]f it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony."); *id.* § 12.32 (setting first-degree felony punishment range at life or five to ninety-nine years of confinement and a fine of up to $10,000). Veazie could have received life or up to ninety-nine years of confinement; therefore, his sentence of seventy-five years does not constitute a maximum sentence. *See id.* § 12.32. Generally, a sentence that is within the range of punishment established by the Texas Legislature will not be disturbed on appeal. *Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984). In addition, a punishment that is within the statutory range for the offense is generally not excessive or unconstitutionally cruel or

[1]The trial court sentenced Veazie as a repeat felony offender.

unusual under the Texas Constitution or the United States Constitution. *Jackson v. State*, 989 S.W.2d 842, 846 (Tex. App.--Texarkana 1999, no pet.); *see also Kirk v. State*, 949 S.W.2d 769, 772 (Tex. App.--Dallas 1997, pet. ref'd). Furthermore, we note that Veazie provides no argument concerning either article 1, section 13 of the Texas Constitution or article 1.09 of the Texas Code of Criminal Procedure. *See* TEX. CONST. art. I, § 13; TEX. CODE CRIM. PROC. ANN. art. 1.09; TEX. R. APP. P. 38.1(h). We overrule Veazie's sole issue and affirm the trial court's judgment.

AFFIRMED.

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CHARLES KREGER
Justice

Submitted on April 16, 2010
Opinion Delivered April 28, 2010
Do Not Publish

Before Gaultney, Kreger, and Horton, JJ.