

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-09-00507-CV**

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**ALPHA JAMES BADEAUX, Appellant**

**V.**

**D.D. AND L.D., INDIVIDUALLY AND AS NEXT FRIEND OF A.D., Appellees**

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**On Appeal from the 284th District Court  
Montgomery County, Texas  
Trial Cause No. 05-11-09977 CV**

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**MEMORANDUM OPINION**

Appellant Alpha James Badeaux appeals the trial court's judgment in favor of appellees D.D. and L.D., individually and as next friend of the minor child A.D., for actual and exemplary damages arising from injuries Badeaux inflicted upon A.D. We affirm the trial court's judgment.

Badeaux was convicted of the aggravated sexual assault of A.D., indecency with A.D., and burglary of the habitation in which A.D. resided with her parents. *Badeaux v. State*, No. 09-05-489-CR, 2007 WL 1052439, at \*1 (Tex. App.—Beaumont Apr. 4, 2007, pet. ref'd) (mem. op.) (not designated for publication). Appellees filed suit against

Badeaux for “intentionally, knowingly, or recklessly caus[ing] bodily injury to Plaintiff [A.D.] by touching the genitals of [A.D].” Appellees sought damages for “bodily injuries, psychological injuries, and mental anguish requiring medical care and attention.” In addition, appellees alleged that, as A.D.’s parents, they “have experienced physical pain and mental anguish and are now unable to live the life they enjoyed prior to the [b]urglary and sexual assault committed by [Badeaux].” Appellees contended that all of the claimed damages would likely continue indefinitely. In response, Badeaux sent a *pro se* letter to the district clerk, and the district clerk filed the letter as Badeaux’s answer.

Appellees filed a motion for summary judgment, in which they asserted that Badeaux had been convicted of “burglary and sexual contact and assault[.]” Appellees contended that they were entitled to a traditional summary judgment because no genuine issues of material fact existed and they could prove their claim as a matter of law. Specifically, appellees argued that the facts to be litigated had been fully and fairly litigated in Badeaux’s criminal trial.

As summary judgment evidence, appellees attached a copy of their original petition; D.D.’s affidavit; a copy of the indictment of Badeaux for indecency with a child, aggravated sexual assault of a child, and burglary of a habitation; and copies of the judgments of Badeaux’s convictions for each of the offenses. In his affidavit, D.D. averred that Badeaux “sexually contacted and battered” A.D., Badeaux had cut a hole in the common wall between Badeaux’s apartment and A.D.’s bedroom and touched A.D.

through the hole at night, A.D. had undergone counseling, and L.D., D.D., and A.D. had suffered from nightmares and anxiety. In response, Badeaux filed a *pro se* letter with the district clerk, in which he stated, “I still maintain my innocence and my court[-]appointed lawyer . . . still has my case on appeal.” The trial court signed an order that granted summary judgment as to liability only.

The trial court set the case for a bench trial on the issue of damages. Badeaux filed a motion in which he requested that the hearing be conducted by conference call because he could not appear in court due to his incarceration, but the trial court signed an order denying the motion, and Badeaux did not appear at trial.

At trial, D.D. testified that Badeaux committed several acts of molestation against A.D. According to D.D., A.D. required counseling, has nightmares, and is fearful. D.D. also testified that he and L.D. had to spend extra time caring for A.D., and they had suffered from anxiety. D.D. testified that he was entitled to damages in the amount of \$200,000 “[d]ue to the fact of all the many, many nights that I sat and talked with [A.D.], trying to get this craziness out of her head.”

L.D. testified that A.D. suffers from fear and has difficulty trusting people, and she explained that A.D. attended several counseling sessions. L.D. testified that Badeaux was “a role model and a grandfather figure and someone to trust.” L.D. testified that she suffers from anxiety and nightmares, and anticipates that those problems will continue, and she opined that an award of \$200,000 would adequately compensate her.

Clayton Williamson, a licensed professional counselor, testified that A.D. “probably went through acute stress disorder and is now in post-traumatic stress disorder at some level[,]” and he opined that A.D. might also experience major depressive disorder. Williams explained that A.D. is “also likely to be more susceptible than the normal population [to] a variety of other disorders . . . , such as sexual aversion disorder, female sexual arousal disorder, female orgasmic disorder[,] and others because of the trauma that was imposed on her. . . .” According to Williamson, A.D. might require future psychological or psychiatric care in the amount of \$97,500.

At the conclusion of the evidence, appellees’ counsel requested a judgment in favor of appellees in the amount of \$200,000 actual damages for D.D., \$200,000 actual damages for L.D., actual damages of \$97,500 for A.D., and \$1,000,000 in exemplary damages. The court found that appellees had established their claims against Badeaux by clear and convincing evidence, and signed a judgment awarding \$200,000 in actual damages to D.D., \$200,000 in actual damages to L.D., \$97,500 in actual damages to A.D., and exemplary damages of \$500,000. The record does not reflect that either party requested findings of fact and conclusions of law. In this appeal, Badeaux asserts that the evidence was factually insufficient to support the judgment. He raises eight issues, which we address collectively.

Badeaux argues in his brief that the evidence concerning the locations at which his sexual offenses against A.D. was inconsistent or untrue, and he contends that the

statement D.D. made in his affidavit about the size of the hole in the wall was inconsistent with the evidence adduced at his criminal trial. Badeaux also argues that he is innocent of the crimes against A.D. Additionally, Badeaux asks this Court to consider a report that does not appear in the appellate record. In the section of his brief entitled “CONCLUSION AND PRAYER,” Badeaux states, “The [trial] court erred by allowing a trial to proceed without Appellant’s presence. The court also abused its discretion by rendering judgment without hearing contrary evidence. These combined errors caused Appellant to not receive a fair trial.” Although the conclusion of Badeaux’s brief refers to his absence from the trial, Badeaux provides no argument or authorities concerning that issue. *See* Tex. R. App. P. 38.1(i) (“The brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record.”).

The trial court heard evidence, both in the form of summary judgment evidence and trial testimony, that Badeaux had been convicted of the aggravated sexual assault of A.D., indecency with A.D., and burglary of the habitation in which A.D. resided with her parents. In addition, the trial court heard evidence that as a result of Badeaux’s offenses against A.D., A.D. had suffered psychologically and would likely continue to do so. As discussed above, Badeaux’s only response to the motion for summary judgment consisted of a statement that he maintained his innocence, and he does not complain on appeal that liability does not exist, that the claimed damages are unrecoverable, or that the evidence

does not support the amount of actual and exemplary damages awarded. We overrule Badaux's sole issue and affirm the trial court's judgment.

AFFIRMED.

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STEVE McKEITHEN  
Chief Justice

Submitted on March 1, 2011  
Opinion Delivered March 24, 2011

Before McKeithen, C.J., Gaultney and Horton, JJ.