



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

---

No. 07-14-00116-CR

---

JACINTO SANTOS, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

---

On Appeal from the 140th District Court  
Lubbock County, Texas  
Trial Court No. 2012-436,322, Honorable Jim Bob Darnell, Presiding

---

November 10, 2014

**MEMORANDUM OPINION**

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Jacinto Santos appeals his conviction of possession of a controlled substance (cocaine) with intent to deliver in an amount of at least 4 grams but not more than 200 grams in a drug free zone. There was also a deadly weapon finding. Appellant was sentenced to 70 years confinement. He argues on appeal that 1) the trial court erred in admitting hearsay statements, 2) there was insufficient evidence to support the deadly

weapon finding, and 3) there was insufficient evidence to prove that he possessed a portion of the cocaine for which he was prosecuted.<sup>1</sup> We reverse the judgment.

We need only address the first point for it is dispositive of the appeal. The State conceded that the trial court erred in admitting the hearsay evidence in question. It also conceded that the error was harmful. Thus, appellant is entitled to a new trial. Furthermore, if we were to sustain the other two issues he raised, appellant would not be entitled to any relief greater than a new trial. That is, neither would permit entry of an acquittal.

Accordingly, the judgment is reversed, and the case is remanded to the trial court.

Brian Quinn  
Chief Justice

Do not publish.

---

<sup>1</sup> If the quantum of drugs encompassed within the last issue (approximately 38 grams) were excluded from the total for which he was prosecuted (approximately 72 grams), there would still remain a sum between the range alleged in the indictment.