In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-20-00157-CR

RAMIRO GUZMAN, APPELLANT

V.

STATE OF TEXAS, APPELLEE

On Appeal from the 222nd District Court of
Deaf Smith County, Texas
Trial Court No. CR-2018G-102, Honorable Roland Saul, Presiding

October 15, 2020

MEMORANDUM OPINION

Before QUINN, C.J., PARKER and DOSS, JJ.

Not as dramatic as O.J. being chased while in his Bronco, the pursuit here did end with an attempted Fred Flintstone stop. The State used Ramiro Guzman's effort to evade police as basis for revoking his community supervision. It originally indicted him for the offense of theft between $750 and $2,500. The adjudication of his guilt for the crime was deferred, and the trial court placed appellant on community supervision for four years. Before it expired, though, the State moved to adjudicate his guilt, contending that he violated a condition of his supervision. The condition required him to refrain from

committing another offense, which brings us back to appellant's slow speed effort to flee and his Flintstone stop. The trial court found true the State's accusation that he evaded arrest, adjudicated him guilty of theft, sentenced him to two years' imprisonment in a state jail facility, and levied a $1,500 fine. Three issues pend for review. One concerns the sufficiency of the evidence supporting the trial court's finding of true, while the other two involve its decision to overrule his objection to the admission of evidence. We affirm.

Sufficiency of the Evidence

Appellant asserts that because he drove slowly through residential and business areas, stopped for a red light, continued to drive despite the officers having had the chance to halt his progress, and voluntarily exited his car at the end of the chase, the State failed to prove he evaded arrest or detention. We overrule the issue.

The pertinent standard of review is that recently discussed by this Court in *Sharp v. State*, No. 07-19-00409-CR, 2020 Tex. App. LEXIS 7124, at *4–5 (Tex. App.—Amarillo Sept. 2, 2020, no pet.) (mem. op., not designated for publication). Under it, we determine whether the State proved, by a preponderance of the evidence, the allegation upon which it sought to adjudicate appellant's guilt. *Id.* And, our duty is to view that evidence in a light most favorable to the trial court's ruling. *Id.*

As mentioned, the State moved to adjudicate appellant's guilt because, among other things, he evaded arrest or detention. One so evades arrest or detention when he intentionally flees from a person he knows is a peace officer attempting to lawfully arrest or detain him. TEX. PENAL CODE ANN. § 38.04(a) (West 2016). Proving that an officer is attempting to detain or arrest someone is often done through evidence of the officer displaying the emergency lights or engaging the siren of his squad car. *Delaney v. State*,

No. 07-17-00027-CR, 2018 Tex. App. LEXIS 6564, at *10 (Tex. App.—Amarillo Aug. 20, 2018, pet. ref'd) (mem. op., not designated for publication) (quoting *Duvall v. State*, 367 S.W.3d 509, 513 (Tex. App.—Texarkana 2012, pet ref'd)). Moreover, establishing flight entails little more than illustrating that the accused failed to promptly comply with the direction to stop. *Id.* (quoting *Horne v. State*, 228 S.W.3d 442, 446 (Tex. App.—Texarkana 2007, no pet.)). The accused need not be hurrying away or speeding. *Id.* at *11 (quoting *Mayfield v. State*, 219 S.W.3d 538, 541 (Tex. App.—Texarkana 2007, no pet.)). Indeed, "unenthusiastic" effort, such as walking to one's residence while failing to heed a directive to halt may be enough. *Griego v. State*, 345 S.W.3d 742, 755 (Tex. App.—Amarillo 2011, no pet.). Nonetheless, speed of flight coupled with the duration and distance of pursuit are informative indicia to consider. *Avila v. State*, No. 07-19-00139-CR, 2020 Tex. App. LEXIS 4145, at *6 (Tex. App.—Amarillo May 27, 2020, no pet.). With that, we turn to the case at hand.

"Unenthusiastic" may best describe much of appellant's effort at bar. It began with multiple officers attempting to execute an arrest warrant upon appellant at an abode on 6th Street. The night had set in, and officers approached the house only to discover that he was not there. Yet, his girlfriend was, and she too was the object of an outstanding warrant. The group conversed momentarily, and as effort was made to effectuate the girlfriend's arrest, appellant drove by in his white BMW. More importantly, his girlfriend noticed it and directed the officers' attention to the departing vehicle. Several police then entered their units, fell-in behind appellant's BMW, and soon activated their emergency lights. Appellant did not speed away, however.

A video of the pursuit showed him proceeding down Ross Street at a modest speed as the police emergency lights reflected off his car. While other vehicles pulled to the side and stopped, appellant did not. Instead, he 1) approached an intersection, 2) stopped behind other traffic awaiting the red light to change, 3) pulled around cars at the intersection, 3) continued on, 4) ran a red light at an intersection adjacent to I-40, 5) turned right onto the access road, 5) proceeded several blocks before again turning right, 6) drove down the street, 7) momentarily placed his arm outside the window while flicking his hand, 8) ran a stop sign, and 9) eventually turned right on the same street on which the chase began. Earlier, at least one officer had engaged the spotlight of his vehicle and shined it upon the driver's side and back of the BMW as appellant drove on.

As the group returned to the house from which appellant was first spied driving by, he opened his car door, stuck out his leg, and placed his foot on the ground reminiscent of Fred trying to stop his rock-wheeled, floorless, stone-aged car. Eventually, the vehicle came to rest in the yard. The journey lasted a bit over five minutes and covered about two miles.

Flashing lights reflecting off the BMW, a spotlight shining at and into it, other cars pulling over, and appellant's running a red light and stop sign are but a few bits of evidence from which the trial court could reasonably conclude that appellant knew of the officers presence and their desire to stop him. That he nevertheless drove on for five minutes and two miles is also some evidence of his intent not to promptly comply with their effort. Simply put, the record contains some evidence establishing the elements of evading arrest and detention, and the trial court did not abuse its discretion in finding appellant committed that offense.

Admission of Evidence

Through his final two issues, appellant complains of the trial court overruling his objection to evidence found on appellant after his arrest. The evidence consisted of approximately $1,200 and a baggie containing a white crystalline substance. Appellant objected when the State asked the testifying officer to describe what occurred after taking appellant to the patrol car. The officer was telling the court about him being placed in the squad car and appearing sweaty when appellant objected. He asserted that the testimony was "going way beyond [the] allegation" under which the State sought to revoke probation. We overrule the issues for he failed to preserve them for review.

Admittedly, appellant objected before mention was made of the money and baggie. The trial court overruled it. Yet, appellant did not ask for a running objection. Nor did he object to the ensuing questions which led to the disclosure of the money and white crystalline substance. To preserve error relating to the admission of evidence, one must object each time the allegedly inadmissible evidence is offered, unless the court grants him a continuous or running objection or the issue is addressed outside the jury's presence. *Ethington v. State*, 819 S.W.2d 854, 858–60 (Tex. Crim. App. 1991); *Logan v. State*, No. 07-09-00150-CR, 2010 Tex. App. LEXIS 3847, at *18–19 (Tex. App.—Amarillo May 20, 2010, pet ref'd.) (mem. op., not designated for publication). That was not done here.

Nor did appellant mention his due process ground to the trial court. This too was fatal, for the grounds underlying the complaint on appeal must comport with those mentioned at trial. *Smith v. State,* 532 S.W.3d 839, 841–42 (Tex. App.—Amarillo 2017, no pet.). If they do not, then the former is waived. *Id.* This rule even includes complaints

regarding the denial of due process. *Jordan v. State*, No. 07-17-00324-CR, 2019 Tex. App. LEXIS 783, at *2–3 (Tex. App.—Amarillo Feb. 5, 2019, pet. ref'd) (per curiam) (mem. op., not designated for publication). So, because appellant mentioned nothing of due process when objecting to the relevance of the money and baggie, that ground was lost.

Having overruled appellant's issues, we affirm the trial court's judgment.

Brian Quinn
Chief Justice

Do not publish.