



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-07-00118-CR

MICHAEL GONZALES, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 124th Judicial District Court
Gregg County, Texas
Trial Court No. 35549-B

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Michael Gonzales appeals his jury conviction on his plea of guilty to the offense of felony driving while intoxicated. The jury assessed punishment at three years' imprisonment.

On appeal, Gonzales complains that the trial court erred by allowing the State to make an impermissible jury argument.

A defendant's right not to be subjected to erroneous jury arguments is one of those rights that is forfeited by a failure to insist upon it. *See Marin v. State*, 851 S.W.2d 275, 279 (Tex. Crim. App. 1993). A defendant who fails to object to a jury argument or who, after an objection to improper jury argument, fails to pursue his objection to an adverse ruling, forfeits his right to complain about the argument on appeal. *Cockrell v. State*, 933 S.W.2d 73, 89 (Tex. Crim. App. 1996).

In this case, no objection was made during the State's closing argument to the jury. Therefore, this point of error is waived. *See id.* at 89; *Marin*, 851 S.W.2d at 279.

Even if not waived, the complained-of statements¹ made by the State fall within the four permissible areas of jury argument: (1) summation of the evidence presented at trial; (2) reasonable deduction from that evidence; (3) answer to the opposing counsel's argument; or (4) a plea for law enforcement. *See Jackson v. State*, 17 S.W.3d 664, 673 (Tex. Crim. App. 2000). We find no error in the State's jury argument.

We affirm the judgment of the trial court.

Bailey C. Moseley
Justice

Date Submitted: April 25, 2008
Date Decided: May 1, 2008

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¹These statements include: "What I'm saying is, he cannot control himself." "But when somebody, whether they're a bad individual or not, cannot control themselves, . . . they need somebody, you, to control them." "You are Gregg County. This is your home. This is where we live. This is where our loved ones are. And when an individual cannot control themselves, can't take responsibility like a grown-up should for their own actions, whether they like them or not, you have a responsibility to do something for him, to make him take a time-out for a little while, and maybe that will get his attention, because probation hasn't worked, county jail time hasn't worked. Well, what have we not tried?" and "He doesn't even think he has a drinking problem. That is the most—the scariest thing I heard this morning come out of this mouth. An individual who has three DWIs has got a drinking problem. There's no doubt about it. And when they don't realize it, that's what's kind of scary."