



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

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No. 06-09-00085-CR

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JOHN LANDOR, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 188th Judicial District Court  
Gregg County, Texas  
Trial Court No. 37,582-A

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

## MEMORANDUM OPINION

John Landor has appealed from his open plea of guilty to the offense of possession of marihuana. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.121(b)(3) (Vernon 2003). The trial court sentenced Landor to one year's confinement in a state-jail facility. *See* TEX. PENAL CODE ANN. § 12.35 (Vernon 2008).

On appeal, Landor contends that his sentence is cruel and unusual in that it is grossly disproportionate to the crime, citing, among other cases, *Solem v. Helm*, 463 U.S. 277 (1983), and *Harmelin v. Michigan*, 501 U.S. 957 (1991). To preserve such complaint for appellate review, Landor must have presented to the trial court a timely request, objection, or motion that stated the specific grounds for the desired ruling, or the complaint must be apparent from the context. *See* TEX. R. APP. P. 33.1(a)(1); *Harrison v. State*, 187 S.W.3d 429, 433 (Tex. Crim. App. 2005); *Williams v. State*, 191 S.W.3d 242, 262 (Tex. App.—Austin 2006, no pet.) (claims of cruel and unusual punishment must be presented in timely manner); *Nicholas v. State*, 56 S.W.3d 760, 768 (Tex. App.—Houston [14th Dist.] 2001, pet. ref'd) (failure to complain to trial court that sentences were cruel and unusual waived claim of error for appellate review). We have reviewed the records of the trial proceeding. No relevant request, objection, or motion was made. And, while this Court has held that a motion for new trial is an appropriate way to preserve this type of claim for review (*see Williamson v. State*, 175 S.W.3d 522, 523–24 (Tex. App.—Texarkana 2005, no pet.); *Delacruz v.*

*State*, 167 S.W.3d 904 (Tex. App.—Texarkana 2005, no pet.)), no motion for new trial was filed.

Therefore, Landor has not preserved such an issue for appeal.

We affirm the trial court's judgment.

Bailey C. Moseley  
Justice

Date Submitted: September 15, 2009

Date Decided: September 16, 2009

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