



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

No. 06-10-00003-CR

ROCKY DWAYNE JENNINGS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 196th Judicial District Court
Hunt County, Texas
Trial Court No. 25714

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

MEMORANDUM OPINION

Rocky Dwayne Jennings confessed to police that he was guilty of aggravated robbery with a deadly weapon.¹ His attorney filed a motion to suppress his written and oral confession to the crime. Instead of ruling on the motion to suppress, the trial court carried the motion with the case. Jennings subsequently, after full admonishments from the court, entered a nonnegotiated plea of guilty to the offense in front of the jury. The issue of punishment tried to a jury resulted in assessment of thirty-two years' incarceration in the Texas Department of Criminal Justice–Institutional Division. As his sole ground for appeal, Jennings alleges the trial court erred in admitting his written and oral confessions during the punishment phase because they were involuntary. He does not challenge the voluntariness of his plea of guilt.

Specifically, Jennings claims he was intoxicated and his lack of signature on one page rendered the initialed written confession involuntary. The Texas Court of Criminal Appeals has held that admission of guilt waives the right to challenge voluntariness of confessions. *Lewis v. State*, 911 S.W.2d 1, 4–5 (Tex. Crim. App. 1995) (en banc); *Simpson v. State*, 67 S.W.3d 327, 329–30 (Tex. App.—Texarkana 2001, no pet.). In a concurring opinion written by Justice Meyers in *Fuller v. State*, the rationale for such a holding is explained:

[Appellant] claims that he did not voluntarily waive his right to remain silent and his right to counsel because he was drunk when the statement was taken and because he was not aware that his brother-in-law, an attorney, had sent a fax

¹Jennings also appeals an additional conviction for aggravated robbery with a deadly weapon and unlawful possession of a firearm in our cause number 06-10-00004-CR. The ground for appeal in the consolidated companion case is substantively resolved herein.

directing officers not to interview him. However, by pleading guilty, he waived the right to challenge on appeal the admission of his initial confession. His non-negotiated guilty plea was the equivalent to him confessing to the jury. While we are always concerned with the voluntariness and accuracy of a confession, by pleading guilty, Appellant confirmed the accuracy of his confession and the issue of voluntariness became moot. As such, he cannot now complain that his confession to the police was admitted for the jury to consider during the punishment phase.

The situation would be different if there were a plea bargain agreement. If his guilty plea was a result of a negotiation between Appellant and the State, then it would be appropriate for us to consider the voluntariness and admissibility of his confession to police.

253 S.W.3d 220, 235–36 (Tex. Crim. App. 2008) (Meyers, J., concurring) (footnote omitted).

We find that Jennings has waived his sole point of error on appeal. It is overruled.²

We affirm the trial court's judgment.

Bailey C. Moseley
Justice

Date Submitted: July 19, 2010

Date Decided: July 22, 2010

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²We also point out that Jennings failed to brief the issue of harm. There is no suggestion as to why admission of the confessions during the punishment phase contributed to the conviction or punishment or affected Jennings's substantial rights. *See* TEX. R. APP. P. 44.2.