



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

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No. 06-10-00229-CR

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BOBBY RAPER, II, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 8th Judicial District Court  
Delta County, Texas  
Trial Court No. 7080

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

## MEMORANDUM OPINION

In Delta County, Texas, Bobby Raper, II, was indicted for burglary of a habitation. Raper pled guilty and received a ten-year sentence, which was probated for ten years.<sup>1</sup> Ten months later, the State moved to revoke Raper's community supervision, alleging that Raper failed to satisfy six conditions of his community supervision. He pled true to all of the allegations except for failure to complete community service. After a hearing, the trial court revoked Raper's community supervision and sentenced him to ten years' incarceration.

On appeal, Raper argues in his sole point of error that the sentence imposed by the trial court is unconstitutionally cruel and unusual.

We affirm the trial court's judgment because this issue was not preserved for our review.

To preserve error for appellate review, a defendant must make a timely request, objection, or motion, and obtain a ruling from the trial court. TEX. R. APP. P. 33.1. This requirement applies even to assertions that a sentence is cruel and unusual. *Richardson v. State*, 328 S.W.3d 61, 72 (Tex. App.—Fort Worth 2010, pet. ref'd) (citing *Solis v. State*, 945 S.W.2d 300, 301 (Tex. App.—Houston [1st Dist.] 1997, pet. ref'd) (cited by *Jackson v. State*, 989 S.W.2d 842, 844 n.3 (Tex. App.—Texarkana 1999, no pet.)); see also *Henderson v. State*, 962 S.W.2d 544, 558 (Tex. Crim. App. 1997).

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<sup>1</sup>Raper was also assessed a \$200.00 fine, \$300.00 in attorney's fees, and \$343.00 in court costs.

After the trial court revoked his community supervision and sentenced him to ten years' incarceration, Raper filed a motion for new trial.<sup>2</sup> In his motion, he argued that the trial court should grant him a new trial because "the verdict in this cause is contrary to the law and the evidence," and because "the trial court has the discretion to grant a new trial in the interest of justice." The motion failed to argue that the sentence was cruel and unusual or otherwise disproportionate. Therefore, this issue was not preserved for our review,<sup>3</sup> and we affirm the trial court's judgment.

Jack Carter  
Justice

Date Submitted: July 5, 2011  
Date Decided: July 6, 2011

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<sup>2</sup>Raper made no other objection to the trial court's judgment.

<sup>3</sup>Even if the contention had been preserved for review, the contention fails. Since the sentence is within the statutory range, there is no indication that the severity of the sentence is grossly disproportionate to the gravity of the offense, and no evidence establishes the sentence's disproportionality as compared with other sentences in this or other jurisdictions. See *Mullins v. State*, 208 S.W.3d 469, 470 (Tex. App.—Texarkana 2006, no pet.).