



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

No. 06-16-00005-CR

JOHN TURNER GRAY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 366th District Court
Collin County, Texas
Trial Court No. 366-81876-2014

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

MEMORANDUM OPINION

A jury convicted John Turner Gray of continuous violence against the family. *See* TEX. PENAL CODE ANN. § 25.11 (West 2011). Gray was sentenced to seven years' imprisonment and was ordered to pay a \$5,000.00 fine. On appeal,¹ Gray argues that the trial court erred in admitting into evidence the 9-1-1 call made by the victim's father, Lawrence Erck, because it contained hearsay and statements that violated Rule 404(b).² We find that Gray failed to preserve these points for our review. Accordingly, we affirm the trial court's judgment.

When the State offered the 9-1-1 call, Gray took Erck on voir dire to establish that he was not the custodian of the audio recording. Gray then objected that the State failed to lay the proper predicate required to admit the audio recording. No further objection was made.

“If a party asserts a different complaint on appeal than was made by objection at trial, the issue is waived.” *Brown v. State*, 333 S.W.3d 606, 614 (Tex. App.—Dallas 2009, no pet.) (citing *Rezac v. State*, 782 S.W.2d 869, 870 (Tex. Crim. App. 1990); *Jones v. State*, 111 S.W.3d 600, 604 (Tex. App.—Dallas 2003, pet. ref'd)). Because Gray's complaints on appeal do not comport with his objection below, he has not preserved this issue.

¹Originally appealed to the Fifth Court of Appeals in Dallas, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. *See* TEX. GOV'T CODE ANN. § 73.001 (West 2013). We follow the precedent of the Fifth Court of Appeals in deciding this case. *See* TEX. R. APP. P. 41.3.

²In companion cases 06-16-00003-CR, 06-16-00004-CR, and 06-16-00006-CR, Gray also appeals from convictions of aggravated assault causing serious bodily injury, criminal mischief, and continuous violence against the family.

We overrule Gray's points of error and affirm the trial court's judgment.

Josh R. Morriss, III
Chief Justice

Date Submitted: June 16, 2016
Date Decided: June 17, 2016

Do Not Publish