



IN THE  
TENTH COURT OF APPEALS

\_\_\_\_\_  
No. 10-13-00388-CR

FELIX RESENDEZ,

Appellant

v.

THE STATE OF TEXAS,

Appellee

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From the 54th District Court  
McLennan County, Texas  
Trial Court No. 2012-965-C2

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MEMORANDUM OPINION

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Felix Resendez was convicted of murder and sentenced to life in prison. TEX. PENAL CODE ANN. § 19.02 (West 2011). We affirm the trial court's judgment.

In his first issue, Resendez argues

The jury-charge instruction on the effect of good conduct time improperly implies that a person may be released from prison early and without supervision solely due to accruing good-conduct time. That is a false implication, and so the court erred in not supplementing the instruction to avoid any confusion.

In his second issue, Resendez argues

The judge improperly charged the jury in punishment not to consider “sympathy.”

Resendez did not object to either instruction.

We have previously addressed these issues in a number of other cases and have consistently rejected the argument that the trial court errs in submitting either instruction. See *Brown v. State*, No. 10-12-00264-CR, 2013 Tex. App. LEXIS 4716 (Tex. App.—Waco Apr. 11, 2013, pet. ref’d) (not designated for publication) (both); *Lopez v. State*, No. 10-12-00282-CR, 2013 Tex. App. LEXIS 1229 (Tex. App.—Waco Feb. 7, 2013, pet. ref’d) (not designated for publication) (both); *Paez v. State*, No. 10-12-00091-CR, 2012 Tex. App. LEXIS 9121 (Tex. App.—Waco November 1, 2012, pet. ref’d) (not designated for publication) (both); *Mathews v. State*, No. 10-12-00046-CR, 2012 Tex. App. LEXIS 7480 (Tex. App.—Waco Aug. 30, 2012, pet. ref’d) (not designated for publication) (both); *Gaither v. State*, No. 10-11-00129-CR, 2012 Tex. App. LEXIS 5252, (Tex. App.—Waco June 27, 2012, no pet.) (not designated for publication) (both); *Lewis v. State*, No. 10-09-00322-CR, 2011 Tex. App. LEXIS 6074 (Tex. App.—Waco Aug. 3, 2011, no pet.) (not designated for publication) (sympathy); *Turner v. State*, No. 10-09-00307-CR, 2011 Tex. App. LEXIS 6072 (Tex. App.—Waco Aug. 3, 2011, no pet.) (not designated for publication) (sympathy); *Wilson v. State*, 267 S.W.3d 215, 219-20 (Tex. App.—Waco 2008, pet. ref’d) (sympathy). Resendez contends, however, that we have not addressed his precise arguments made under these issues; that being whether statutory construction and public policy dictate that these instructions, as given, are erroneous. Nevertheless,

these arguments, while possibly couched in different terms, do not change the fact that we have previously and consistently overruled similar challenges to these specific instructions as being erroneous. Resendez’s current arguments have not persuaded us to reconsider our rulings.

Accordingly, the trial court did not err in submitting the good conduct time instruction or the “anti-sympathy” instruction. Resendez’s first and second issues are overruled.

The trial court’s judgment is affirmed.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

Affirmed

Opinion delivered and filed September 11, 2014

Do not publish

[CRPM]

