



**IN THE
TENTH COURT OF APPEALS**

No. 10-15-00388-CR

DANIEL RIOS HINOJOSA,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 40th District Court
Ellis County, Texas
Trial Court No. 39522CR**

MEMORANDUM OPINION

Daniel Rios Hinojosa was convicted of the offense of “Continuous Sexual Abuse of Young Child” and sentenced to 75 years in prison. *See* TEX. PENAL CODE ANN. § 21.02 (West 2011). In two issues, Hinojosa complains that his sentence violates his constitutional rights pursuant to the United States and Texas Constitutions because the sentence is grossly disproportionate to the crime and inappropriate as applied to him. Because his complaints are not preserved, the trial court’s judgment is affirmed.

At trial, Hinojosa never objected to the sentence he received nor did he file a motion for new trial on the basis that his sentence violated the 8th Amendment to the United States Constitution or Article I, Section 13 of the Texas Constitution. See U.S. CONST. AMEND. VIII; TEX. CONST. art. I, § 13. An objection on this basis must be made to the trial court in order to be preserved. Because no such objection was made, we find that Hinojosa's complaints were not preserved for our review. TEX. R. APP. P. 33.1(a)(1)(A); *Wilson v. State*, 71 S.W.3d 346, 349 (Tex. Crim. App. 2002); *Broxton v. State*, 909 S.W.2d 912, 918 (Tex. Crim. App. 1995) (reviewing court will not consider errors, even of constitutional magnitude, not called to the trial court's attention). See also *Rhoades v. State*, 934 S.W.2d 113, 120 (Tex. Crim. App. 1996) (holding that complaint relating to constitutional prohibition against cruel and unusual punishment was waived when no objection on this basis was made in trial court). Accordingly, Hinojosa's first and second issues are overruled, and 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 November 30, 2016

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