



IN THE
TENTH COURT OF APPEALS

No. 10-19-00092-CR

ESTELA BRICENO FAJARDO,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 19th District Court
McLennan County, Texas
Trial Court No. 2018-1413-C1**

MEMORANDUM OPINION

Estela Briceno Fajardo was charged with Theft, a state jail felony. TEX. PENAL CODE § 31.03(e)(4)(A). After a jury trial, she was convicted of Theft, a misdemeanor, and sentenced to one year in jail. *Id.* (e)(3).

In her sole issue on appeal, Fajardo contends the State committed prosecutorial misconduct when, according to Fajardo, the State called an alleged co-conspirator to testify knowing that the witness intended to invoke his Fifth Amendment right not to testify. A timely objection regarding prosecutorial misconduct is necessary to preserve

error for purposes of appeal. *Estrada v. State*, 313 S.W.3d 274, 303 (Tex. Crim. App. 2010); *Watkins v. State*, 333 S.W.3d 771, 780 (Tex. App.—Waco 2010, pet. ref'd). The failure to make a specific objection at trial based upon prosecutorial misconduct precludes our review based on this theory. *Montoya v. State*, 43 S.W.3d 568, 572 (Tex. App.—Waco 2001, no pet.). Even assuming that what Fajardo asserts in her issue occurred at trial, and we make no determination that it did, Fajardo never objected to the State's actions. Accordingly, our review of her complaint is precluded, and her sole issue is overruled.

The trial court's judgment is affirmed.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Neill

Affirmed

Opinion delivered and filed July 21, 2020

Do not publish

[CR25]

