

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-08-00164-CR

Augustine Salazar, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 368TH JUDICIAL DISTRICT
NO. 07-531-K368, HONORABLE BURT CARNES, JUDGE PRESIDING**

CONCURRING OPINION

I concur in the judgment. Salazar waived any error in the trial court’s overruling of his motion to suppress. When a pretrial motion to suppress evidence is overruled, the defendant need not object at trial to the same evidence in order to preserve error on appeal. *Moraguez v. State*, 701 S.W.2d 902, 904 (Tex. Crim. App. 1986); *Figueroa v. State*, 250 S.W.3d 490, 514 (Tex. App.—Austin 2008, pet. ref’d). However, when the defendant affirmatively asserts during trial that he has “no objection” to the admission of the complained of evidence, he waives any error in the admission of the evidence despite the pretrial ruling. *Swain v. State*, 181 S.W.3d 359, 368 (Tex. Crim. App. 2005). When the State offered the cocaine—the admissibility of which was the subject of the motion to suppress and this appeal—defendant’s attorney stated, “No objection, your

honor.” This is dispositive of this case, and this Court need not address other issues. I would offer no opinion as to remaining points raised by Salazar.

G. Alan Waldrop, Justice

Before Justices Patterson, Waldrop and Henson

Filed: October 29, 2009

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