



NUMBER 13-16-00303-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

MICHELLE PUENTES,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 36th District Court of
San Patricio County, Texas.**

MEMORANDUM OPINION

**Before Justices Contreras, Benavides and Longoria
Memorandum Opinion by Justice Longoria**

Appellant Michelle Puentes was convicted of one count of possession with intent to deliver a substance in Penalty Group 1 (specifically, cocaine) in an amount of one gram or more but less than four grams, a second-degree felony. See TEX. HEALTH & SAFETY CODE ANN. § 481.112(c) (West, Westlaw through 2015 R.S.). By one issue, Puentes argues that the trial court erred by denying her motion to suppress. We affirm.

I. BACKGROUND

Officer Daniel Alcala of the Sinton Police Department testified that he and Officer Scott Roush obtained a warrant for the arrest of Puentes for the offense of assault, which is unrelated to this appeal. See TEX. PENAL CODE ANN. § 22.02(a) (West, Westlaw through 2015 R.S.). On February 13, 2015, Officers Alcala and Roush attempted to serve the warrant at Puentes's residence in Sinton, Texas. As they arrived, Puentes had just pulled out of the driveway. Officer Alcala testified that Puentes began driving away at a high rate of speed. Officer Alcala further testified that Puentes did not stop or pull over even though they had turned on their police vehicle emergency lights and were only a few car lengths behind Puentes's vehicle. Instead, she navigated down a series of side roads, disregarded a red light, pulled into the driveway of her uncle's house, and exited her vehicle.

Within seconds, Officers Alcala and Roush parked their vehicle in front of the driveway and exited their vehicle. Officer Alcala testified that he told Puentes he had a warrant for her arrest and that she was under arrest. He averred that Puentes, who was still standing in the open door of her vehicle, reached back inside her vehicle, grabbed her purse, and then began yelling at her uncle, who was sitting on the porch, to come grab the purse. Officer Alcala put his hands on her to arrest her while Officer Roush took the purse from her hands and placed it back on the driver's seat of her vehicle. After they handcuffed Puentes, Officer Roush searched the purse and found three Ziploc baggies with a white powdery substance inside, which field-tested positive for cocaine.

Puentes elected to have a bench trial. She filed a motion to suppress the cocaine that was seized, but the trial court denied the motion and found that the officers' search

of the purse was a legal search incident to arrest. She was found guilty of the lesser included offense of possession of a controlled substance in an amount of one gram or more but less than four grams, a third-degree felony. See TEX. HEALTH & SAFETY CODE ANN. § 481.115(b) (West, Westlaw through 2015 R.S.). The trial court sentenced her to eight years' imprisonment but probated the sentence and placed Puentes on community supervision for eight years. This appeal followed.

II. STANDARD OF REVIEW AND APPLICABLE LAW

In reviewing a trial court's ruling on a motion to suppress, we employ a bifurcated standard, giving almost total deference to a trial court's determination of historic facts and mixed questions of law and fact that rely upon the credibility of a witness, but applying a de novo standard of review to pure questions of law and mixed questions that do not depend on credibility determinations. *State v. Kerwick*, 393 S.W.3d 270, 273 (Tex. Crim. App. 2013). We review the record in the light most favorable to the trial court's determination, and will reverse the judgment only if it is arbitrary, unreasonable, or "outside the zone of reasonable disagreement." *State v. Dixon*, 206 S.W. 3d 587, 590 (Tex. Crim. App. 2006).

"A search incident to lawful arrest requires no warrant if it is restricted to a search of the person or objects immediately associated with the person of the arrestee." See *Stewart v. State*, 611 S.W.2d 434, 437 (Tex. Crim. App. [Panel Op.] 1981); see also *Schroeder v. State*, No. 13-13-00379-CR, 2015 WL 1632309, at *16 (Tex. App.—Corpus Christi Apr. 9, 2015, no pet.) (mem. op., not designated for publication). A purse is an item immediately associated with a person because it is typically carried at all times, similar to a wallet or items in a pocket. See *Stewart*, 611 S.W.2d at 437.

III. DISCUSSION

On appeal, Puentes argues that the trial court erred by denying her motion to suppress the cocaine seized by the officers. She argues that the search of her purse was unjustified and warrantless. However, she does not challenge the legality of the underlying arrest. She also provides no authority for the assertion that the officers in this case lost the ability to lawfully search the purse, an object immediately associated with her person and in her physical possession at the time of arrest, simply by setting the purse down while placing handcuffs on her. *See id.* We also find no authority to suggest that Puentes requesting a third party to take possession of her purse would affect the officer's ability to lawfully search it. As stated above, no warrant is required for a search incident to a lawful arrest if it is restricted to a search of the person and objects immediately associated with the person, which include personal items like purses. *See id.* Viewing the record in the light most favorable to the verdict, we conclude that the officers conducted a lawful search incident to arrest. *See id.* Therefore, the trial court did not abuse its discretion in denying Puentes's motion. *See Dixon*, 206 S.W. 3d at 590. We overrule her sole issue.

IV. CONCLUSION

We affirm the trial court's judgment.

NORA L. LONGORIA,
Justice

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TEX. R. APP. P. 47.2(b).

Delivered and filed the
25th day of May, 2017.