

NO. 12-07-00265-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*MATTHEW MCMURRAY,
APPELLANT*

§

APPEAL FROM THE SEVENTH

V.

§

JUDICIAL DISTRICT COURT OF

*THE STATE OF TEXAS,
APPELLEE*

§

SMITH COUNTY, TEXAS

MEMORANDUM OPINION

Matthew McMurray appeals the trial court's judgment sentencing him to twenty years of imprisonment for aggravated sexual assault. In one issue, Appellant argues that he received an unconstitutionally disproportionate sentence. We affirm.

BACKGROUND

Appellant was charged by indictment with having committed the offense of aggravated sexual assault. After consulting with his appointed counsel, Appellant pleaded guilty to the offense. The trial court found Appellant guilty as charged and assessed his punishment at twenty years of imprisonment. This appeal followed.

DISPROPORTIONATE SENTENCE

Appellant contends that his sentence is unconstitutionally disproportionate to the evidence presented.¹ Rule 33.1(a) of the Texas Rules of Appellate Procedure states as follows:

¹ Appellant initially couches his issue as based upon principles of evidentiary sufficiency; however, the issue actually presented in Appellant's argument is that of an unconstitutionally disproportionate sentence.

As a prerequisite to presenting a complaint for appellate review, the record must show that:

- (1) the complaint was made to the trial court by a timely request, objection, or motion that:
 - (A) stated the grounds for the ruling that the complaining party sought from the trial court with sufficient specificity to make the trial court aware of the complaint, unless the specific grounds were apparent from the context; and
 - (B) complied with the requirements of the Texas Rules of Civil or Criminal Evidence or the Texas Rules of Civil or Appellate Procedure; and
- (2) the trial court:
 - (A) ruled on the request, objection, or motion, either expressly or implicitly; or
 - (B) refused to rule on the request, objection, or motion, and the complaining party objected to the refusal.

TEX. R. APP. P. 33.1(a). The requirements of Rule 33.1 apply to the issue raised here by Appellant. *See Willis v. State*, 192 S.W.3d 585, 595-97 (Tex. App.—Tyler 2006, pet. ref'd).

We have reviewed the record and have found no request, objection, or motion raising the complaint now brought on appeal. Therefore, this matter is not preserved for appellate review. *See* TEX. R. APP. P. 33.1(a). We overrule Appellant's sole issue.

DISPOSITION

We *affirm* the judgment of the trial court.

SAM GRIFFITH

Justice

Opinion delivered July 23, 2008.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)