

NO. 12-16-00004-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*DECOBIE DYWAIN DURDEN,
APPELLANT*

§ *APPEAL FROM THE 420TH*

V.

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,
APPELLEE*

§ *NACOGDOCHES COUNTY, TEXAS*

MEMORANDUM OPINION

Decobie Dywain Durden appeals his conviction for capital murder, for which he was sentenced to imprisonment for life. In one issue, Appellant argues that his right to a public trial was violated. We affirm.

BACKGROUND

Appellant was charged by indictment with capital murder. He pleaded “not guilty,” and the matter proceeded to a jury trial. The jury found Appellant “guilty,” and the trial court assessed his punishment at imprisonment for life. This appeal followed.

DENIAL OF A PUBLIC TRIAL

In Appellant’s sole issue, he contends that the trial court erred by denying him a public trial.

The Sixth Amendment to the Constitution of the United States and Article I, Section 10 of the Texas Constitution both provide that in all criminal prosecutions, the accused shall have a speedy public trial. The Texas Code of Criminal Procedure mandates that the proceedings and trials in all courts be public. TEX. CODE CRIM. PROC. ANN. art. 1.24 (West 2005).

A complaint that a defendant’s right to a public trial was violated is subject to forfeiture. *Peyronel v. State*, 465 S.W.3d 650, 653 (Tex. Crim. App. 2015). A defendant is not required to use “magic language” to preserve his public trial complaint for review, but he has the burden to “state [] the grounds for the ruling . . . 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.” *Id.* at 654 (quoting TEX. R. APP. P. 33.1).

On the third day of Appellant’s trial, the trial court restricted the public from entering and leaving the courtroom during witness testimony. The trial court stated that this was because on the previous day of trial, there were “people traipsing in and out all through the trial, extremely disruptive, doors clanging, all the movement back and forth.” Defense counsel stated that he had no objection to the procedure.

Because Appellant voiced no objection to the trial court’s limitations on the public’s entering and leaving the courtroom, his public trial complaint was not preserved for appellate review. *See Peyronel*, 465 S.W.3d at 653. Accordingly, we overrule Appellant’s sole issue.

DISPOSITION

Having overruled Appellant’s sole issue, we *affirm* the trial court’s judgment.

BRIAN HOYLE
Justice

Opinion delivered September 7, 2016.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 7, 2016

NO. 12-16-00004-CR

DECOBIE DYWAIN DURDEN,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 420th District Court
of Nacogdoches County, Texas (Tr.Ct.No. F1420803)

THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

Brian Hoyle, Justice.

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