

Affirmed and Opinion filed January 24, 2002.



In The
Fourteenth Court of Appeals

NO. 14-01-00600-CR

JAN BARNETT MORIARTY, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from 25th District Court
Colorado County, Texas
Trial Court Cause No. CR99-118**

OPINION

Jan Barnett Moriarty appeals a deferred adjudication for credit card abuse on the ground that the trial court erred by denying her motion to suppress evidence seized from her purse after she was arrested. We affirm.

Appellant's sole point of error argues that the search of her purse was unlawful because the police officer failed to obtain a search warrant and the search was neither made pursuant to an inventory search nor incident to her arrest. However, as a prerequisite to presenting a complaint for appellate review, the record must show that the trial court either ruled on the motion, expressly or implicitly, or refused to rule on it and the complaining party

objected to the refusal. TEX. R. APP. P. 33.1(a)(2)(A); *Gutierrez v. State*, 36 S.W.3d 509, 510 (Tex. Crim. App. 2001). In this case, at the conclusion of the hearing on appellant's motion to suppress, the trial court stated that it was taking the matter under advisement. Thereafter, appellant entered into a plea agreement, and the trial court placed appellant on deferred adjudication community supervision. Although appellant's notice of appeal states that her motion to suppress was overruled by the trial court at the hearing on the motion, the record not only lacks evidence of any ruling on the motion, but it affirmatively shows that no ruling was made at the hearing. Appellant made no objection to the trial court's failure to rule at the hearing or thereafter and would have had no basis for any such objection in that a trial court may defer its ruling on a pretrial motion to suppress until trial. *See Moore v. State*, 700 S.W.2d 193, 205 (Tex. Crim. App. 1985). Lacking a record to show that appellant's complaint was preserved, her point of error is overruled, and the judgment of the trial court is affirmed.

/s/ Richard H. Edelman
 Justice

Judgment rendered and Opinion filed January 24, 2002.

Panel consists of Justices Yates, Edelman, and Guzman.

Do Not Publish — TEX. R. APP. P. 47.3(b).