

Affirmed and Opinion filed May 31, 2001.



In The

Fourteenth Court of Appeals

NO. 14-99-01397-CR

FRIDAY OLOYE INUAGHATA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Criminal Court at Law No. 15
Harris County, Texas
Trial Court Cause No. 99-28311**

MEMORANDUM OPINION

Appellant was charged by information with the misdemeanor offense of assault. *See* TEX. PEN. CODE ANN. § 22.01 (Vernon Supp. 2000). The jury found him guilty as charged in the information. The court entered a family violence finding and sentenced appellant to a year's probation. We affirm.

The evidence shows that on June 20, 1999, appellant was arguing with his wife, the complainant, and that the argument turned into a physical altercation. The complainant testified that appellant struck her, giving her a black eye. Appellant testified that he and the complainant were arguing about the level of physical discipline to exercise over their three year old

daughter. He alleges that the complainant was injured after he physically intervened with the complainant to prevent her from striking their daughter.

In a single point of error, appellant complains as follows: “The trial court erred by failing to include in the court’s charge to the jury that defendant’s defense of his child against complainant’s severe beating with a belt justified the combat he engaged in with the complainant as protection of his child.” Citing *Pinson v. State*, 23 Tex. 579 (1859) and *Gorman v. State*, 42 Tex. 221 (1875), appellant argues that a person may defend his child or any relative against an attack to the same extent that he may defend himself.

The record does not support appellant’s complaint. Contrary to appellant’s assertion, the trial court did, in fact, give the jurors instructions on the justifications of self-defense, TEX. PEN. CODE ANN. § 9.31 (Vernon Supp. 2000), and defense of a third person, TEX. PEN. CODE ANN. § 9.33 (Vernon 1994). The justification of defense of a third person encompasses the defense of a child or other family member. Finding no error in that portion of the jury charge complained of, we overrule appellant’s sole point of error and affirm the trial court’s judgment.

PER CURIAM

Judgment rendered and Opinion filed May 31, 2001.
Panel consists of Justices Yates, Fowler, and Wittig.
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