

Affirmed and Opinion filed July 13, 2000.



In The

Fourteenth Court of Appeals

NO. 14-98-00965-CR

TYRONE LEONARD SANDERS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 184th District Court
Harris County, Texas
Trial Court Cause No. 781,173**

OPINION

A jury found Appellant Tyrone Leonard Sanders guilty of sexual assault and assessed punishment at thirty years' imprisonment. Appellant contends that the trial court erred in disallowing evidence of the complainant's gang affiliation. Finding that the trial court did not abuse its discretion in disallowing such evidence, we affirm Appellant's conviction.

BACKGROUND

In the pre-dawn hours of a June night in 1997, sixteen-year-old S.S., the complainant, left her home without her mother's permission and drove with some friends to an apartment

in southwest Houston to retrieve a friend's cassette tape. There were many men in the apartment, none whom S.S. knew. While she was there, Appellant grabbed her by the arm and pulled her into a bathroom, where he forced her to have sexual intercourse with him. After he finished, he made S.S. wash her vagina. S.S. angrily left the apartment, told her friends what had occurred, and shortly went home where she also confided in her mother. She later identified Appellant from a photographic lineup.

During cross-examination at trial, Appellant's counsel asked S.S. whether she had anything to fear when she entered the apartment because her friend had invited her there. S.S. replied, "Yeah, I had something to be afraid of, a whole bunch of people up there I don't know nothing about, and they're supposed to be gang members." Appellant then argued that this testimony opened the door to evidence about S.S.'s own affiliation with the gang known as the Crips.

RULE OF OPTIONAL COMPLETENESS

In his sole point of error, Appellant contends evidence of the complainant's gang affiliation was admissible under Texas Rule of Evidence 107, the Rule of Optional Completeness. This rule states in relevant part: "When part of an act, declaration, conversation, writing or recorded statement is given in evidence by one party, the whole on the same subject may be inquired into by the other . . ." TEX. R. EVID. 107. Appellant contends that the victim opened the door to evidence of her gang affiliation when she claimed on cross-examination that she had reason to fear the people in the apartment where she was raped because they were supposedly gang members.

We review a trial court's ruling under one of the rules of evidence for abuse of discretion. *See Angleton v. State*, 971 S.W.2d 65, 67 (Tex. Crim. App. 1998). The purpose of Rule 107 is to reduce the possibility of the jury receiving a false impression from hearing only a part of some act, conversation, or writing. *See Credille v. State*, 925 S.W.2d 112, 116 (Tex. App.—Houston [14th Dist.] 1996, pet. ref'd). For the rule to apply, however, the matter must be "opened up" by the adverse party. *See id.*; *see also Jones v. State*, 963 S.W.2d 177,

182 (Tex. App.—Fort Worth 1998, pet. ref'd) (rule's "purpose is to allow one side to complete the picture when the opponent has opened the door."). Here the matter was not "opened up" by the State, but was raised during Appellant's cross-examination of the victim. Appellant cannot raise the matter and then invoke the rule of optional completeness. Accordingly, we hold that the trial court did not abuse its discretion in disallowing evidence of the victim's gang affiliation, and we overrule Appellant's point of error.

Having overruled Appellant's sole point of error, we affirm the judgment of the trial court.

/s/ Ross A. Sears
 Justice

Judgment rendered and Opinion filed July 13, 2000.

Panel consists of Justices Robertson, Sears, and Cannon.*

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* Senior Justices Sam Robertson, Ross A. Sears, and Bill Cannon sitting by assignment.