



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-19-00170-CR

NANCY RODRIGUEZ, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 364th District Court
Lubbock County, Texas
Trial Court No. 2010-428,842, Honorable William R. Eichman II, Presiding

May 29, 2020

MEMORANDUM OPINION

Before PIRTLE and PARKER and DOSS, JJ.

Appellant, Nancy Rodriguez, appeals from the trial court's order revoking her deferred adjudication community supervision, adjudicating her guilty of the second degree felony offense of aggravated assault,¹ and sentencing her to fifteen years' incarceration. Appellant challenges her sentence as constituting cruel and unusual punishment in violation of the United States and Texas constitutions. We affirm the judgment of the trial court.

¹ See TEX. PENAL CODE ANN. § 22.02(a)(2) (West 2019).

Because we decide this case on appellant's failure to preserve the objection she raises on appeal, we will only briefly address the facts. On May 9, 2013, appellant pled guilty to the offense of aggravated assault. The trial court deferred adjudication of the offense and sentenced her to four years of community supervision. The State filed a motion to proceed to adjudication of guilt in April of 2014, which resulted in the trial court modifying the terms of appellant's community supervision to add a year to the duration of her community supervision and placing her in a Substance Abuse Felony Punishment Facility. After filing a subsequent motion to proceed to adjudication in April of 2016, the State filed an amended motion on March 27, 2018. At the subsequent hearing on the motion, appellant pleaded true to all allegations in the motion, which included four separate violations of the law, evidence of drug use, and multiple failures to report and pay fees. After appellant presented mitigation evidence, the trial court adjudicated appellant guilty and sentenced her to fifteen years' incarceration. Appellant did not object to the sentence at the time it was pronounced. Neither did she file any post-judgment motion challenging the sentence.

The record reflects that appellant made no objection to the sentence based either on the contention that the sentence was grossly disproportionate or violated the prohibition against cruel and unusual punishment. Our rules of appellate procedure require that the trial court be made aware of any complaint via a timely request, objection, or motion that states the grounds for the objection and the requested ruling. TEX. R. APP. P. 33.1(a)(1). The failure to make such an objection or motion stating the grounds for the objection to the ruling results in waiver of the point on appeal, even for constitutional issues. See *Grado v. State*, 445 S.W.3d 736, 738-39 (Tex. Crim. App. 2014); *Anderson v. State*, 301 S.W.3d 276, 279-80 (Tex. Crim. App. 2009). Specifically, a complaint about

cruel and unusual punishment is subject to the preservation requirement. *Rhoades v. State*, 934 S.W.2d 113, 120 (Tex. Crim. App. 1996); *Rodriguez v. State*, 459 S.W.3d 184, 200 (Tex. App.—Amarillo 2015, pet. ref'd). Because appellant failed to object to the trial court's sentence, nothing has been preserved for appeal and we overrule appellant's sole issue.

Because appellant failed to preserve the error she claims on appeal, we deny appellant's sole issue and affirm the judgment of the trial court. See TEX. R. APP. P. 43.2(a).

Judy C. Parker
Justice

Do not publish.