

Affirmed and Opinion filed July 13, 2000.



In The

Fourteenth Court of Appeals

NO. 14-98-00734-CR & 14-98-00735-CR

TERRANCE HAMILTON, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 262nd District Court
Harris County, Texas
Trial Court Cause Nos. 783,385 & 783,386

OPINION

Appellant was charged in separate indictments with arson and aggravated robbery. A jury convicted him of arson and the lesser-included offense of aggravated assault and assessed his punishment at five years' confinement and a \$10,000 fine in the arson, and fifteen years' confinement for the aggravated assault. In one issue, appellant argues that the prosecutor committed reversible error in reading enhancement paragraphs, which were determined to be convictions of another Terrance Hamilton, to the jury and introducing alleged out of state convictions in the presence of the jury. We affirm.

Appellant argues that the prosecutor committed reversible error by (1) reading two enhancement paragraphs, which were determined to be convictions of another Terrance Hamilton, to the jury and later abandoning them without an explanation by the jury; and (2)

eliciting testimony concerning two alleged Michigan convictions. During the punishment stage of the trial, the prosecutor read two enhancement paragraphs to the jury and the defendant pleaded not true to these two paragraphs. The trial recessed for lunch. After the recess, the prosecutor withdrew both enhancements paragraphs, reoffered the evidence introduced at the guilt/innocence stage of the trial, and rested the punishment case.

Appellant called his brother and sister as witnesses during the punishment stage of the trial, but they did not testify about his criminal history on direct examination. On cross-examination, the prosecutor questioned both of them concerning whether appellant had a prior criminal record in Michigan. Appellant did not object to any prosecutorial misconduct or that undue prejudice was brought to bear against him. Appellant also failed to object to the prosecutor's questions to his brother about appellant's criminal background. Finally, appellant did not object when the complainant testified about appellant's prison time and parole in Michigan.

To preserve error in cases of prosecutorial misconduct, a defendant must "(1) object on specific grounds, (2) request an instruction that the jury disregard the comment, and (3) move for a mistrial." *Penry v. State*, 903 S.W.2d 715, 764 (Tex. Crim. App. 1995). By failing to object, appellant has preserved nothing for our review. See TEX. R. APP. P. 33.1(a); *Penry*, 903 S.W.2d at 764; *Cook v. State*, 858 S.W.2d 467, 473 (Tex. Crim. App. 1993).

Accordingly, we overrule appellant's only issue and affirm the judgment of the trial court.

/s/ Ross A. Sears
 Justice

Judgment rendered and Opinion filed July 13, 2000.

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

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

* Senior Justices Ross A. Sears, Bill Cannon, and Norman Lee sitting by assignment.

