Affirmed and Opinion filed January 11, 2001.

In The

Fourteenth Court of Appeals

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NO. 14-99-00854-CR

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JOSEPH GEORGE PEREZ, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 185th District Court
Harris County, Texas
Trial Court Cause No. 789,116

O P I N I O N

Over his plea of not guilty to aggravated robbery, a jury found Joseph Perez ("appellant") guilty of the lesser included offense of aggravated assault. The jury assessed punishment at twenty years' confinement in the Institutional Division of the Texas Department of Criminal Justice. Appellant appeals his conviction on two points of error. We affirm the judgment of the trial court because we find that appellant waived error as to both of his points of error.

F A C T U A L B A C K G R O U N D

After the Harris County Police Department received a Crime Stoppers' tip, appellant became a suspect in the murder of Patrick Brannon and assault of David Scott near Spring Creek in Harris County, Texas. After appellant learned that Detective Cox of the Harris County Sheriff's Office, homicide division, wanted to speak with him, he called the Sheriff's Office. Appellant spoke with Detective Pinkins and stated he would voluntarily speak to the detectives about the Spring Creek murder and assault. Appellant, however, told the police that he had no transportation to go to the homicide division office. Detectives Pinkins and Kuhlman agreed to pick appellant up at this mother's house and take him to their office. When they picked up appellant, he agreed to talk to them and willingly accompanied them to their office, negating any need for handcuffs. Though the detectives had an arrest warrant for appellant, they did not use it due to appellant's willingness to cooperate.

Once the detectives and appellant arrived at the homicide division office, the detectives read him his *Miranda* rights. At first appellant denied involvement in the crime. Eventually, though, he confessed to taking part in the assault, but denied murdering anyone.

At a *Jackson-Denno* hearing, the detectives testified that appellant's statement and his waiver of rights were both voluntarily made. In addition, the detectives testified that they conveyed to appellant no promises or inducements. The trial court determined that the confession was admissible. After the hearing, appellant argued that because the detectives informed him that he could be charged with capital murder for his involvement in Patrick Brannon's death, his confession was coerced and consequently, involuntarily made. The trial court overruled the appellant's motion to suppress his confession.

D I S C U S S I O N & H O L D I N G S

A. INVOLUNTARY CONFESSION

In his first point of error, appellant complains that his confession was the result of improper police procedure, in that the detectives did not execute the existing arrest warrant on him and did not bring appellant before a magistrate. This argument in support of suppressing his confession is in stark contrast to appellant's objection, made at the time of the hearing, to the State's use of his confession. At the hearing, appellant argued that the detectives, by telling him that he could be charged with capital murder

if he murdered Patrick Brannon, coerced appellant's confession, thus making it involuntary.

In order to preserve error for appellate review, the Rules of Appellate Procedure require a party to make a timely, specific objection in the trial court. TEX. R. APP. P. 33.1(a)(1). Furthermore, arguments made on appeal must correspond with the objection at the hearing. *Butler v. State*, 872 S.W.2d 227, 236 (Tex. Crim. App. 1994); *Fuller v. State*, 827 S.W.2d 919, 928 (Tex. Crim. App. 1992). If they do not, error is not preserved, but rather, it is waived. *Butler*, 872 S.W.2d at 236.

At the hearing, appellant argued that his confession resulted from improper police procedure; specifically, he confessed to aggravated assault of David Scott because he was warned that he could face capital punishment for the murder of Patrick Brannon. He did not complain that the detectives failed to take him before a magistrate. Thus, appellant's arguments on appeal fail to correspond with his objection at the hearing. *Id*. Accordingly, appellant failed to preserve error and this point of error is waived.

B. SEPARATION OF POWERS DOCTRINE

In his second point of error, appellant contends that his rights should have been read to him by a magistrate instead of by the arresting officers. In support of this argument, appellant suggests that the provision of the penal code which allows either a magistrate or an arresting officer to read him his rights[1] violates the separation of powers doctrine in Article II, section 1 of the Texas Constitution.

Appellant does not furnish this Court with any argument as to how or why this function should be solely that of one branch of government and not the other. Appellant cites to no authority in support of his assertion that the statute has somehow violated his state constitutional rights. Appellant only cites us to *State v. Williams*. 938 S.W.2d 456 (Tex. Crim. App. 1997). In *State v. Williams*, the court of criminal appeals held that the legislature has ultimate authority over judicial administration, but may not encroach on substantive judicial powers. *Id*. at 459. Appellant, however, does not argue whether the reading of rights is a substantive judicial power. We find no authority to suggest that it is.

"[I]t is incumbent upon [an appellant] to show that in its operation the statute is unconstitutional as to him in his situation; that it may be unconstitutional as to others is not sufficient." *McFarland v. State*,

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[1] TEX. CODE CRIM. PROC. ANN. art. 38.22(2)(a) (Vernon 1979).

928 S.W.2d 482, 521-22 (Tex. Crim. App. 1996), *cert. denied*, 519 U.S. 1119, 117 S.Ct. 966, 136 L.Ed.2d 851 (1997). To adequately brief a constitutional issue, appellant is required to present the court with *specific* arguments and authorities supporting his contentions under the constitution. *Hicks v. State*, 15 S.W.3d 626, 631 (Tex. App.—Houston [14th Dist.] 2000, pet. ref'd). Without that, his contentions are inadequately briefed. *See* TEX. R. APP. P. 38.1(h); *Lawton v. State*, 913 S.W.2d 542, 558 (Tex. Crim. App. 1995), *cert. denied*, 519 U.S. 826, 117 S.Ct. 88, 136 L.Ed.2d 44 (1996); *Hicks*, 15 S.W.3d at 631. We hold that appellant waived his constitutional contentions, and we overrule his second point of error.

C O N C L U S I O N

Appellant failed to preserve error as to either one of his grounds for appeal. As a result, both points of error are overruled. We therefore affirm the judgment of the trial court.

/s/ Wanda McKee Fowler
Justice

Judgment rendered and Opinion filed January 11, 2001.

Panel consists of Justices Anderson, Fowler, and Edelman.

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