Affirmed and Opinion filed February 10, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-98-00211-CR

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DENNIS WASHINGTON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 209th District Court
Harris County, Texas
Trial Court Cause No. 758,173

O P I N I O N

A jury found appellant Dennis Washington guilty of robbery and assessed punishment at forty years' confinement. In one point of error, appellant alleges that the State's final argument deprived him of his right to a unanimous verdict. We overrule this point of error and affirm the judgment, as appellant failed to object to the complained-of argument.

Appellant Washington and his co-defendant, Walter Earl McNulty, were charged with robbing a Discount Tire store. They had entered the store, grabbed four tires and ran out the door into a car. Store employees briefly caught one of the robbers, but he ordered the other robber to shoot the employees. When the other robber reached behind him as if to pull out a

gun, the employees released the robber and ran. They did get the license plate number of the getaway car, which ultimately lead to the arrest of appellant and his co-defendant. Both defendants were tried together and were found guilty of robbery.

During closing argument at trial, the State argued to the jury that a guilty verdict could be returned regardless of whether all the jurors were unanimous as to which of the two defendants ordered the other one to shoot and which of the two was the one who threatened to pull a gun. In other words, the State argued that the jurors did not have to agree as to which defendant was the primary actor and which defendant was a party to the offense, in order to find appellant guilty of robbery. This, argues appellant on appeal, deprived him of his right to a unanimous jury verdict, which is required by the Texas constitution and statutes in criminal cases. *See* TEX. CONST. Art. V, § 13; TEX. CODE CRIM. PROC. ANN. Art. 36.29; *Brown v. State*, 508 S.W.2d 91, 93 (Tex. Crim. App. 1974). Appellant argues that the State misstated the law because the jury must be unanimous that he was either guilty as the primary actor or guilty as a party.

We note that appellant did not object to the State's closing argument. To preserve jury argument for appellate review, an objection must be made at trial and an adverse ruling obtained. *Cockrell v. State*, 933 S.W.2d 73, 89 (Tex. Crim. App. 1996), *cert. denied*, 520 U.S. 73, 117 S. Ct. 1442 (1997); *Boston v. State*, 965 S.W.2d 546, 549 (Tex. App. –Houston [14th Dist.] 1997, pet. ref'd). As appellant did not object to the State's closing argument, any error has been waived and cannot now be raised on appeal. Regardless, the State's argument was not error. Where alternative theories of committing the same offense are submitted to the jury in the disjunctive, it is appropriate for the jury to return a general verdict. *Kitchens v. State*, 823 S.W.2d 256, 258 (Tex. Crim. App. 1991), *cert. denied*, 504 U.S. 958, 112 S. Ct. 2309 (1992). There is no requirement in a general verdict that the jury be unanimous on the means of committing the alleged offense. *Gray v. State*, 980 S.W.2d 772, 775 (Tex. App. – Fort Worth 1998, no pet.).

Appellant's point of error is overruled and the judgment is affirmed.

PER CURIAM

Judgment rendered and Opinion filed February 10, 2000.

Panel consists of Justices Cannon, Lee, and Hutson-Dunn.[*]

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

[*] Senior Justices Bill Cannon, Norman Lee, and D. Camille Hutson-Dunn sitting by assignment.