Affirmed and Opinion filed March 8, 2001.

In The

Fourteenth Court of Appeals

NO. 14-99-01387-CR

JEFFREY SWEED, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 263rd District Court
Harris County, Texas
Trial Court Cause No. 824,287

O P I N I O N

Jeffrey Sweed appeals a conviction for delivery of a simulated controlled substance[1] on the grounds that the trial court erred by failing to dismiss the jury panel after it learned, during *voir dire*, of his prior criminal conviction. We affirm.

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[1] Appellant was charged by indictment with delivery of a simulated controlled substance, found guilty by a jury, and sentenced by the jury to eighteen years' confinement. A simulated controlled substance is a substance that is purported to be a controlled substance, but is chemically different from the controlled substance it is purported to be. TEX. HEALTH & SAFETY CODE ANN. § 482.001(4) (Vernon 1992).

Appellant's sole point of error[2] contends that the trial court should have dismissed the entire jury panel after *he* made the following statement during *voir dire*: "This indictment is a charge here and I was already in jail. . . . I was in jail when I got a possession of controlled substance on here. . . . The indictment, they got me on the offense." However, appellant's failure to request an instruction to disregard his statement, request a dismissal of the jury panel, or otherwise present the matter for the trial court's consideration and obtain an adverse ruling, waived this complaint.[3] *See* TEX. R. APP. P. 33.1(a); *Rhoades v. State*, 934 S.W.2d 113, 119-20 (Tex. Crim. App. 1996) (holding that failure to object to remarks made during *voir dire* presented nothing for review). Accordingly, appellant's point of error is overruled, and the judgment of the trial court is affirmed.

/s/ Richard H. Edelman
Justice

Judgment rendered and Opinion filed March 8, 2001.
Panel consists of Senior Chief Justice Murphy[4] and Justices Edelman and Frost.

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[2] Following the section of appellant's brief entitled "Preliminary Statement" is a section entitled "Standard of Review." A sentence in the "Standard of Review" section states, "In his second point of error, Appellant will argue that the amended indictment fails to give Appellant adequate notice for preparation of his trial." However, appellant's brief contains no second point of error or any further mention of any complaint regarding the indictment. Therefore, the foregoing sentence presents nothing for our review. *See* TEX. R. APP. P. 38.1(h) (Appellant's brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities.).

[3] Nor is a trial court required to reward a defendant for such disruptive behavior with a mistrial. *See Molina v. State*, 971 S.W.2d 676, 682 (Tex. App.—Houston [14th Dist.] 1998, pet. ref'd) (holding no error to deny a mistrial where the defendant made such repeated outbursts during *voir dire* that the court ordered him bound and gagged); *see also Illinois v. Allen*, 397 U.S. 337, 346 (1970) (determining that a defendant cannot be permitted by his disruptive conduct to avoid being tried on the charges brought against him).

[4] Senior Chief Justice Paul C. Murphy sitting by assignment.

Do not publish — TEX. R. APP. P. 47.3(b).