Affirmed and Opinion filed May 3, 2001.

In The

Fourteenth Court of Appeals

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NO. 14-98-01355-CR

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DAVID LLOYD LOWE, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Criminal Court at Law No. 9
Harris County, Texas
Trial Court Cause No. 98-16169

O P I N I O N

A jury found Appellant, David Lloyd Lowe, guilty of criminal trespass, and the trial court assessed punishment at 150 days' confinement in the Harris County jail. Appellant brings two points of error, contending that the trial court erred in denying his motion to quash the information because it 1) set forth insufficient information with which to prepare a defense, and 2) did not identify the manner or means by which he allegedly committed trespass.

The criminal trespass statute provides:

> A person commits an offense if he enters or remains on property, including an aircraft, of another without effective consent or he enters and remains in a building of another without effective consent and he:
>
> (1) had notice that the entry was forbidden; or
>
> (2) received notice to depart but failed to do so.

TEX. PEN. CODE ANN. § 30.05(a) (Vernon Supp. 2000). In this case, the information generally tracked the language of the statute, alleging that Appellant did "intentionally and knowingly enter and remain on property of another, namely, HUGH JULIAN, without the effective consent of HUGH JULIAN, after having received notice that the entry was forbidden." The crux of Appellant's two points of error is that the information failed to specify when he received notice that entry was forbidden on the property, from whom he received notice, and the type of notice he received. Because it did not include this data, he argues that he had insufficient notice with which to build a defense and that the information failed to specify the means by which he committed the crime.

First, a charging instrument must convey sufficient notice to allow a defendant to prepare a defense. *State v. May*, 967 S.W.2d 404, 406 (Tex. Crim. App. 1998). However, unless a fact is essential, the charging instrument need not allege evidentiary facts. *Id.*; *see Thomas v. State*, 621 S.W.2d 158, 161 (Tex. Crim. App. 1973). Additionally, when a term is statutorily defined, it need not be further alleged in the charging instrument. *Id.* The criminal trespass statute defines "notice," the term that Appellant argues should have been more specifically delineated in the information. Thus, the information is not required to include the evidentiary facts surrounding what notice Appellant received. *Bobo v. State*, 757 S.W.2d 58, 61 (Tex. App.—Houston [14th Dist.] 1988, pet. ref'd). To require otherwise would force the State to allege evidentiary matters. *Thompson v. State*, 12 S.W.3d 915, 924 (Tex. App.–Beaumont 2000, pet. ref'd). Because the information need not specify these evidentiary matters, it gave adequate notice to Appellant to enable him to prepare a defense. Consequently, we overrule point of error one.

Second, where a criminal statute possesses statutorily defined, alternative methods of

committing an offense, upon timely request, a defendant is entitled to an allegation of which statutory method the State intends to prove. *State v. Edmond*, 933 S.W.2d 120, 128-29 (Tex. Crim. App. 1996). Subject to rare exceptions, a charging instrument that tracks the language of a statute will satisfy constitutional and notice requirements. *May*, 967 S.W.2d at 406. By its plain reading, the criminal trespass statute contains two manner or means by which trespass can be committed. *See* TEX. PEN. CODE ANN. § 30.05(a). In this case, the information specified by which of the two manner or means Appellant committed criminal trespass– namely, that he entered and remained on the property without effective consent after he had notice that the entry was forbidden. We have previously held that the information is not required to allege the means of notice provided to a defendant in order to sufficiently charge him with criminal trespass. *Bobo v. State*, 757 S.W.2d at 61. This rationale is equally applicable to such data as the date of notice and from whom notice was received. For "when a statute defines the manner or means of committing an offense, an [information] based upon that statute need not allege anything beyond that definition." *Mays*, 967 S.W.2d at 409. Accordingly, because the information in this case adequately alleged the manner and means by which Appellant committed criminal trespass, the trial court did not err in denying Appellant's motion to quash. We overrule Appellant's second point of error.

Having overruled both points of error, we affirm the trial court's judgment.

/s/ Ross A. Sears
Justice

Judgment rendered and Opinion filed May 3, 2001.

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

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

* Senior Justice Ross A. Sears, Senior Justice Bill Cannon, and Former Justice Eric Andell sitting by assignment.