Affirmed and Opinion filed May 3, 2001.

In The

Fourteenth Court of Appeals

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NO. 14-99-01324-CR

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JOSEPH JOE HANDY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause No. 766,669

O P I N I O N

Appellant was charged by indictment with the felony offense of aggravated assault. *See* TEX. PEN. CODE ANN. § 22.02 (Vernon 1994). He pleaded guilty without a plea agreement, and the court reset the case for a presentence investigation. After the investigation, the trial court held a hearing, found appellant guilty, and assessed punishment at five years in prison. Because appellant has not shown his guilty plea was involuntary, we affirm.

In a single point of error, appellant complains his plea was involuntary in that he pleaded guilty without understanding the consequences. Appellant argues that the record shows he thought the presentence investigation would prove him innocent and that he was under the

mistaken impression that he could contest his guilt at the presentence hearing.

The guilty plea of an accused must be made voluntarily. *Flowers v. State*, 935 S.W.2d 131, 133 (Tex. Crim. App. 1996). When an accused is not aware of the consequences of his plea and as a result is misled or harmed, the plea may be deemed involuntary. *Ex parte Williams*, 704 S.W.2d 773, 775-76 (Tex. Crim. App. 1986). When the accused attests at the plea hearing that he is acting voluntarily, the accused bears a heavy burden to show later that the plea was involuntary. *Jones v. State*, 855 S.W.2d 82, 84 (Tex. App.—Houston [14th Dist.] 1993, pet ref'd). We determine the issue of voluntariness by examining the totality of the circumstances. *Martinez v. State*, 981 S.W.2d 195, 197 (Tex. Crim. App. 1998).

Here, appellant stated that he was under the impression that after his guilty plea, he could contest his guilt at the presentence hearing. The record also contains evidence that trial counsel had difficulty understanding appellant. The plea hearing was not recorded. Nevertheless, appellant signed his plea agreement, which included written waivers and admonishments, required by article 26.13(d) of the Code of Criminal Procedure. He initialed most, though not all, of the individual waivers. Among the items not initialed by appellant were the waiver of a court reporter and a statement saying that he understood that before sentence may be imposed the court must order a presentence investigation report. There is no requirement under state law, however, that each statement, waiver, or admonition be individually initialed by the accused. By signing the statements and waivers, the accused acknowledged that he understood the admonishments, waivers, and statements and understood the consequences of his plea. Moreover, during the presentence hearing, appellant orally agreed with his attorney that his prior plea had not been forced or coerced, that he had gone over the paperwork with his attorney, that he understood the paperwork, that he understood the nature of his prior plea, and that the purpose of the presentencing hearing was for a determination of punishment only. After viewing the totality of the circumstances, we find that appellant has not met his burden of demonstrating that his plea was involuntary or that he did not understand the plea's consequences. We overrule his sole point of error and affirm the trial court's judgment.

PER CURIAM

Judgment rendered and Opinion filed May 3, 2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy[1].

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

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