

Affirmed and Opinion filed October 25, 2001.



In The
Fourteenth Court of Appeals

NO. 14-00-00883-CR

TERRENCE WALKER, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 338th District Court
Harris County, Texas
Trial Court Cause No. 828,905**

OPINION

Appellant, Terrence Walker, pleaded guilty to the offense of aggravated sexual assault of a child, and was placed on deferred adjudication community supervision. The State subsequently filed a motion to adjudicate guilt. Following the appellant's plea of "true" to the allegations of that motion, the trial court assessed punishment at twenty-five years' confinement in the Texas Department of Criminal Justice - Institutional Division. The appellant presents six points of error. We affirm.

Under his first four points of error, the appellant complains that his constitutional rights to compulsory process were violated, as he neither expressly waived those rights in

writing nor did the State present evidence to support his plea of guilt. The appellant has waived these points of error by his failure to timely appeal at the time he was placed on deferred adjudication community supervision. *Vidaurri v. State*, 49 S.W.3d 880 (Tex. Crim. App. 2001); *Manuel v. State*, 994 S.W.2d 658, 661-62 (Tex. Crim. App. 1999). Regardless, the appellant acknowledges that the merits of his arguments were expressly rejected in *Vanderburg v. State*, 681 S.W.2d 713 (Tex. App.—Houston [14th Dist.] 1984, pet. ref’d.). Although the appellant urges us to adopt a rule contrary to *Vanderburg* as set forth in Michigan, Ohio, and Arizona state court cases, we decline to do so and overrule the first, second, third and fourth points of error.

In his fifth and sixth points of error, the appellant argues that his punishment of twenty-five years’ confinement was not proportional to the offense committed, and therefore violated his constitutional rights against cruel and unusual punishment. Appellant fails, however, to direct our attention to anything in the record establishing that the punishment was not proportional, and his argument presents nothing for our review. TEX. R. APP. P. 38.1(h).

The appellant acknowledges that when the punishment assessed is within the range provided by statute, as is the case here, the punishment is not cruel or unusual within constitutional meaning, citing *Samuel v. State*, 477 S.W.2d 611 (Tex. Crim. App. 1972). He contends, however, that under the “unique facts” of his case, the punishment was unconstitutional. As appellant fails to present any legal authority or facts in the record to support this argument, nothing is presented for our review. TEX. R. APP. P. 38.1(h).

Appellant’s fifth and sixth points of error are overruled. The judgment is affirmed.

/s/ Scott Brister
Chief Justice

Judgment rendered and Opinion filed October 25, 2001.

Panel consists of Chief Justice Brister and Justices Fowler and Seymore.

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