Affirmed and Opinion filed January 27, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-97-01235-CR

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JOSEPH KEITH CAMERON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 56th District Court
Galveston County, Texas
Trial Court Cause No. 96CR0844

O P I N I O N

Joseph Keith Cameron appeals a conviction for indecency with a child on the ground that the trial court fundamentally erred in failing to order a presentence investigation. We affirm.

Appellant pled guilty to the offense of indecency with a child without an agreed sentencing recommendation. After finding appellant guilty, the trial court immediately heard testimony regarding punishment and then assessed punishment at three years confinement.

Appellant's sole point of error argues that the trial court fundamentally erred in not ordering a statutorily required presentence investigation before evidence was presented on the issue of punishment and sentence was imposed.

With exceptions not applicable to this case, "before the imposition of sentence by a judge in a felony case . . . the judge shall direct a supervision officer to report to the judge in writing on the circumstances of the offense with which the defendant is charged . . . ." *See* TEX. CODE CRIM. PROC. ANN. art. 42.12, § 9(a) (Vernon Supp. 2000).[1] However, to preserve a complaint for appellate review, a party must generally present a timely request, objection, or motion to the trial court, stating the grounds for the desired ruling, and secure a ruling from the trial court. *See* TEX. R. APP. P. 33.1(a). Thus, any right to have a presentence investigation prepared prior to sentencing in a felony case is forfeitable by inaction. *See Holloman v. State*, 942 S.W.2d 773, 776 (Tex. App.–Beaumont 1997, no pet.); *Summers v. State*, 942 S.W.2d 695, 696 (Tex. App.–Houston [14th Dist.] 1997, no pet.).

In the present case, because the record reflects neither a request by appellant for a presentence investigation nor an objection to being sentenced without one, his complaint presents nothing for our review. Accordingly, appellant's point of error is overruled and the judgment of the trial court is affirmed.

/s/ Richard H. Edelman

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[1] Article 37.07, section 3(d) states:

> When the judge assesses the punishment, he *may* order an investigative report as contemplated in Section 9 of Article 42.12 of this code and after considering the report, and after the hearing of the evidence hereinabove provided for, he shall forthwith announce his decision in open court as to the punishment to be assessed.

See TEX. CODE CRIM. PROC. ANN. art. 37.07, § 3(d) (Vernon Supp. 1999) (emphasis added). Based on the permissive language of section 3(d), this court has held that a court's decision to order a presentence investigation is discretionary despite the mandatory language of section 9(a) of article 42.12. *See Summers v. State*, 942 S.W.2d 695, 696 (Tex. App.–Houston [14th Dist.] 1997, no pet.).

Justice

Judgment rendered and Opinion filed January 27, 2000.
Panel consists of Justices Hudson, Edelman, and Wittig.
Do not publish — TEX. R. APP. P. 47.3(b).