

Motion for Rehearing Overruled; Affirmed and Opinion filed April 6, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00017-CR

CLARENCE LAVERNE KING, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 184th District Court
Harris County, Texas
Trial Court Cause No. 751,104**

SUPPLEMENTAL OPINION ON MOTION FOR REHEARING

In his motion for rehearing, Clarence Laverne King (Appellant) contends that this court failed to address his argument that the joint trial denied him due process of law and due course of law. He also contends that this court erred in holding that (1) he failed to make a sufficient showing of prejudice to warrant a severance, (2) there was no evidence in the record to support his request for a jury instruction on the statute of limitations, and (3) the statute of limitations was not a proper area of inquiry during voir dire. We overrule his motion for rehearing in all respects and issue this supplemental opinion solely to address

Appellant's contention that we neglected to address his due process and due course of law arguments in the original opinion.

In his motion for rehearing, Appellant complains that our opinion rejecting his argument that the trial court erred in denying his motion for severance "limits its analysis to the application of Article 36.09 of the Texas Code of Criminal Procedure." Appellant contends that "[s]eparate and apart from Article 36.09, [he] complained that the joint trial denied him a fair trial . . . [and that] the Court failed to address whether the joint trial denied [him] due process of law and due course of law." In his original brief, the sum of Appellant's argument concerning due process and due course of law states:

The denial of the motion for severance denied appellant due process and a fair trial. Denial of due process is constitutional error. *See Brecheisen v. State*, 948 S.W.2d 490 (Tex.App.–Fort Worth 1997).

While Appellant adequately presented his contention that the trial court abused its discretion by denying his motion for severance, he failed to adequately brief his contention concerning due process violations relative to his motion for severance.

Texas Rule of Appellate Procedure 38.1(h) provides that the "brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." TEX. R. APP. P. 38.1(h). Conclusory arguments which cite no authority present nothing for our review. *See Vuong v. State*, 830 S.W.2d 929, 940 (Tex. Crim. App. 1992); *Atkins v. State*, 919 S.W.2d 770, 774-75 (Tex. App.—Houston [14th Dist.] 1996, no pet.). Appellant presented this court with only an abstract assertion that his due process rights were violated, with no argument or analysis to support his contention and no citations to the record. Appellant did not address any of the governing legal principles nor did he apply any such principles to the facts of this case. Furthermore, the one case citation Appellant provided is inaccurate in that the case was reversed and remanded by the Texas Court of Criminal Appeals. *See Brecheisen v. State*, 958 S.W.2d 490 (Tex.App.–Fort

Worth 1997), *reversed and remanded*, 4 S.W.3d 761 (Tex.Crim.App. 1999). Appellant's briefing on this issue falls short of the minimum required to present an issue for appellate review. Because Appellant failed to adequately brief the court on his due process and due course of law arguments, he waived error. *See Greer v. State*, 999 S.W.2d 484, 488 n.3 (Tex. App.—Houston [14th Dist.] 1999, pet. filed). Accordingly, we conclude that Appellant's due process and due course of law contentions present nothing for review.

Appellant's motion for rehearing is overruled.

/s/ Kem Thompson Frost
Justice

Judgment rendered and Opinion filed April 6, 2000.

Panel consists of Justices Yates, Frost and Draughn.¹

Publish — TEX. R. APP. P. 47.3(b).

¹ Senior Justice Joe L. Draughn sitting by assignment.