

**Affirmed and Opinion filed December 13, 2001.**



**In The**  
**Fourteenth Court of Appeals**

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**NO. 14-00-01479-CR**

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**WILLIAM MARINELLI, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 185th District Court  
Harris County, Texas  
Trial Court Cause No. 813,566**

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**MEMORANDUM OPINION**

This is an appeal of the constitutionality of a plea agreement. We issue this memorandum opinion pursuant to Texas Rule of Appellate Procedure 47.1 because the law to be applied in the case is well settled. We affirm.

**Background**

Appellant pled guilty to theft in open court on September 9, 2001 without an agreed recommendation. In support of the judgment, the trial court received evidence in the form of a written confession of guilt. No court reporter was present.

## Issue

In a single issue appellant submits that Article 1.15 of the Texas Code of Criminal Procedure violates his federal right to compulsory process by preventing him from presenting evidence as part of his plea. Article 1.15 of the Texas Code of Criminal Procedure states, in pertinent part:

[I]t shall be necessary for the state to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for its judgment and in no event shall a person charged be convicted upon his plea without sufficient evidence to support the same.

## Discussion

We agree with the State that appellant's claim amounts to a *Vanderburg* brief. See *Vanderburg v. State*, 681 S.W.2d 713, 716 (Tex. App.—Houston [14th Dist.] 1984, pet ref'd). In *Vanderburg*, we held that Article 1.15 does not prevent the court from receiving evidence from the defendant. *Id.* at 718. We also held that even if it did, this would not violate a defendant's constitutional rights. *Id.* We further noted that there is no requirement under United States or Texas law that a defendant expressly waive his right to compulsory process. *Id.* at 717. The issue presented has been rejected by our courts for seventeen years. Appellant's issue is overruled.

Accordingly, the judgment of the trial court is affirmed.

/s/ Don Wittig  
Senior Justice

Judgment rendered and Opinion filed December 13, 2001.

Panel consists of Justices Yates, Edelman, and Wittig.<sup>1</sup>

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

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<sup>1</sup> Senior Justice Don Wittig sitting by assignment.