

**COURT OF APPEALS FOR THE SECOND DISTRICT OF TEXAS AT FORT
WORTH**

Duane Reid v. The State of Texas

2015 WL 5634251 (Tex. App.—Fort Worth Sept. 24, 2015) · No. 02-14-00376-CR · Decided November 2, 2015

SUMMARY

This document is Duane Reid’s Petition for Discretionary Review filed in the Texas Court of Criminal Appeals. Reid challenges the Second Court of Appeals’ determination that he forfeited his Sixth Amendment confrontation complaint by failing to object to the admission and consideration of a presentence investigation report at punishment. The document includes the appellate court’s memorandum opinion affirming the trial court’s eight-year sentence for felony theft.

CASE DETAILS

COURT	Court of Appeals for the Second District of Texas at Fort Worth
WRITING FOR THE COURT	Lee Ann Dauphinot; Livingston, C.J.; Lee Ann Dauphinot, J.; Gardner, J.
JURISDICTION	Texas
DECIDED	November 2, 2015
DOCKET	02-14-00376-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment following an open guilty plea to theft and a bench-assessed sentence of eight years' confinement. The appellant challenged the trial court's consideration of a presentence investigation report at punishment under the Sixth Amendment's Confrontation Clause.
STANDARD OF REVIEW	Error-preservation review under Texas Rule of Appellate Procedure 33.1(a); an appellate court should not address the merits of an issue not preserved in the trial court.
PRECEDENTIAL VALUE	Unpublished and not designated for publication; nonprecedential under the source's designation.
PARTIES	Duane Reid v. The State of Texas

TOPICS

preservation of error

appellate procedure

criminal procedure

sixth amendment

evidence

PRACTICE AREAS

criminal appellate procedure

criminal procedure

constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether Reid preserved for appellate review his Sixth Amendment Confrontation Clause complaint concerning the trial court's admission and consideration of the presentence investigation report at punishment.

HOLDINGS

1. Reid forfeited his Sixth Amendment confrontation complaint because he did not timely object to the admission of the presentence investigation report or otherwise complain in the trial court that the court considered it in assessing punishment.

KEY QUOTATIONS

“The Sixth Amendment right to confrontation, among other constitutional rights, may be forfeited by the failure to object.” (at 2)

“Because Appellant did not object or otherwise complain in the trial court of the admission of the PSI or of the trial court’s considering the PSI in assessing punishment, he has not preserved this complaint for review.” (at 2)

FACTUAL BACKGROUND

Reid entered an open guilty plea to theft and waived a jury, leaving punishment for the trial court. The court ordered and admitted a presentence investigation report, without objection, and one State witness also testified at punishment. The trial court sentenced Reid to eight years' confinement, and Reid later challenged the use of the PSI under the Sixth Amendment.

PROCEDURAL HISTORY

Reid pleaded guilty to theft, waived a jury, and requested that the trial court assess punishment. The trial court admitted the presentence investigation report without objection and sentenced Reid to eight years' confinement. After his motion for new trial was overruled by operation of law, Reid appealed; the court of appeals held that his confrontation complaint was not preserved and affirmed.

DISPOSITION

affirmed

CASES CITED

- Everitt v. State, 407 S.W.3d 259, 262-63 (Tex. Crim. App. 2013)

- Sanchez v. State, 418 S.W.3d 302, 306 (Tex. App.—Fort Worth 2013, pet. ref'd)
- Ford v. State, 305 S.W.3d 530, 532 (Tex. Crim. App. 2009)
- Reyes v. State, 361 S.W.3d 222, 229 (Tex. App.—Fort Worth 2012, pet. ref'd)

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