

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Byron Lewis v. The State of Texas

No. 07-25-00050-CR · No. No. 07-25-00050-CR · Decided March 20, 2026

SUMMARY

The Seventh District Court of Appeals of Texas affirmed Byron Lewis’s concurrent eight-year sentences for two convictions for aggravated assault with a deadly weapon. The court held that Lewis failed to preserve his gross-disproportionality claim because he did not present his motion for new trial to the trial court or object at sentencing. The court also concluded that, even if preserved, the sentences were not grossly disproportionate in light of the offenses and Lewis’s criminal history.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Per curiam; signed by Lawrence M. Doss; Parker, C.J.; Doss, J.; Yarbrough, J.
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	March 20, 2026
DOCKET	No. 07-25-00050-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from convictions for two counts of aggravated assault with a deadly weapon and concurrent eight-year sentences. The appellant challenged the sentences as grossly disproportionate and unconstitutional under the Eighth Amendment.
STANDARD OF REVIEW	Sentencing determinations are reviewed for abuse of discretion. A sentence within the statutory punishment range generally will not be held unconstitutional, but may be invalid if it is grossly disproportionate to the offense.
PRECEDENTIAL VALUE	unpublished
PARTIES	Byron Lewis v. The State of Texas

TOPICS

- sentencing
- cruel and unusual punishment
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

sentencing

constitutional law

appellate practice

QUESTIONS PRESENTED

1. Whether Lewis preserved his claim that his concurrent eight-year sentences constituted grossly disproportionate and cruel and unusual punishment.
2. Whether, if preserved, the concurrent eight-year sentences were grossly disproportionate to the aggravated-assault offenses in violation of the Eighth Amendment.

HOLDINGS

1. A defendant does not preserve a sentencing-constitutional challenge merely by filing a motion for new trial; the defendant must bring the motion to the trial court's attention, or must object when sentence is pronounced. Because Lewis did neither, his issue was not preserved for appellate review.
2. Even if Lewis had preserved the claim, the record did not show that his concurrent eight-year sentences were grossly disproportionate to the aggravated-assault offenses.

KEY QUOTATIONS

“Outside the capital punishment context, however, a successful proportionality challenge is “exceedingly rare.”” (at 2)

FACTUAL BACKGROUND

Lewis threatened two store employees at gunpoint, despite having previously been told not to return to the location. The offenses were aggravated assault with a deadly weapon, second-degree felonies, and the trial court imposed concurrent eight-year sentences. The presentence investigation report reflected several aggravating circumstances, including recovered narcotics, six prior misdemeanor convictions, two prior felony drug-possession convictions, and revocation of bond for alleged cocaine use.

PROCEDURAL HISTORY

A Tarrant County grand jury indicted Lewis for two aggravated-assault counts and alleged a prior felony conviction. Lewis entered open pleas, and the trial court assessed concurrent eight-year sentences after a punishment hearing. He filed a motion for new trial raising disproportionality and lack of consideration of mitigating evidence, but the record did not show that he presented the motion to the trial court. The Seventh District Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. State, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984)

- Ex parte Chavez, 213 S.W.3d 320, 323–24 (Tex. Crim. App. 2006)
- Foster v. State, 525 S.W.3d 898, 912 (Tex. App.—Dallas 2017, pet. ref’d)
- Alvarez v. State, 525 S.W.3d 890, 892 (Tex. App.—Eastland 2017, pet. ref’d)
- Solem v. Helm, 463 U.S. 277, 287 (1983)
- State v. Simpson, 488 S.W.3d 318, 322–24 (Tex. Crim. App. 2016)
- Lockyer v. Andrade, 538 U.S. 63, 73 (2003)
- Smith v. State, 721 S.W.2d 844, 855 (Tex. Crim. App. 1986)
- Noland v. State, 264 S.W.3d 144, 151 (Tex. App.—Houston [1st Dist.] 2007, pet. ref’d)
- Carranza v. State, 960 S.W.2d 76, 79–80 (Tex. Crim. App. 1998)

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