

Review of Recent Juvenile Cases (2007)

by
The Honorable Pat Garza
Associate Judge
386th District Court
San Antonio, Texas

The phrase "Oh, come on!" is not a sufficient objection stating the specific grounds for complaint.[In the Matter of D.O.](07-1-1B)

On November 9, 2006, the Houston (1st. Dist.) Court of Appeals held that to preserve a complaint for appellate review, a party must have presented to the trial court a timely request, objection, or motion stating the specific grounds for the ruling desired.

¶ 07-1-1B. **In the Matter of D.O.**, ___S.W.3d ___, No. 01-05-00989-CV, 2006 Tex.App.Lexis 9710 [Tex.App.—Houston (1st Dist.), 11/9/06].

Facts: On August 12, 2005, Jose Silva and Jose Gomez were hanging banners on a business property when they were confronted by George Romero. Romero accused the two young men of talking badly about his cousin, and, after an exchange of words, Romero struck Silva on the back of the head. Gomez then proceeded to strike Romero.

Appellant, an "associate" of Romero's, had trailed behind Romero at a distance of 12 to 13 feet. According to appellant's testimony, he knew Romero was going "to start something," so he urged Romero to "chill out" and leave Gomez and Silva alone. Appellant stated that he felt compelled to join the fight when it became a "two on one" situation, with both Gomez and Silva striking Romero. To keep the fight from escalating, appellant grabbed Silva and threw him to the ground. Appellant testified that, after he threw Silva to the ground, Silva began to strike him repeatedly. In response, appellant struck Silva once in the head.

At trial, appellant stipulated to the fact that he knowingly caused Silva bodily injury and relied entirely on the justification of defense of a third person. The trial court, however, found that appellant had engaged in delinquent conduct and placed him in the custody of the Texas Youth Commission.

Held: Affirmed

Opinion: In his third issue, appellant argues that the trial court erred in finding that D.D., a minor, was not competent to testify as an eyewitness to the fight between appellant, Romero, Gomez, and Silva. Appellant, however, has waived this contention.

To preserve a complaint for appellate review, a party must have presented to the trial court a timely request, objection, or motion stating the specific grounds for the ruling desired. *TEX R. APP. P. 33.1(a)(1), (a)(2)*. Simply stating "objection" is too general to preserve error. *See Fierro v. State, 706 S.W.2d 310, 317-18 (Tex. Crim. App. 1986)*. Specific grounds are required to inform the trial court of the basis of the objection, to afford the trial court the opportunity to rule on the objection, and to provide opposing counsel with an opportunity to supply further testimony. *Maynard v. State, 685 S.W.2d 60, 64-65 (Tex. Crim. App. 1985)*. Therefore, an objection is

preserved for appellate review where the record shows that the trial court and opposing counsel were aware of the substance of a defendant's objection or where the correct ground of exclusion was obvious. *Thomas v. State*, 723 S.W.2d 696, 700-01 (Tex. Crim. App. 1986).

Here, the record indicates that, after the trial court determined D.D. was not competent to testify, appellant's only response was "[o]h, come on." "Oh, come on" is not a sufficient objection stating the specific grounds for complaint. Because appellant did not make a sufficient objection at trial, no error has been preserved for our review. Appellant has, therefore, waived this contention.

Accordingly, we overrule appellant's third issue.

Conclusion: We affirm the trial court's judgment.