

Year 2004 Case Summaries

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Running objection did not preserve error when the same testimony was presented without objection by another witness [In re P.R.P.] (04-3-17).

On July 7, 2004, the Waco Court of Appeals held that a running objection to extraneous offense testimony did not preserve error when the same testimony was later presented by another witness without further objection.

04-3-17. In the Matter of P.R.P., UNPUBLISHED, No. 10-03-00129-CV, 2004 WL 1574602, 2004 Tex.App.Lexis ____ (Tex.App.-Waco 7/7/04) Texas Juvenile Law (5th Ed. 2000).

Facts: P.R.P. was adjudicated delinquent for committing the offense of assault on a public servant. The juvenile court placed him on probation for one year.

Held: Affirmed.

Opinion Text: In his sole issue, P.R.P. contends the trial court erred in admitting evidence of an extraneous offense alleged to have been committed by P.R.P. The State responds that P.R.P. did not preserve this complaint for our review because he neglected to object each time evidence about the extraneous offense was introduced.

Generally, a party must continue to object each time inadmissible evidence is offered, with two exceptions, only one of which is argued by P.R.P. *Martinez v. State*, 98 S.W.3d 189, 193 (Tex.Crim.App.2003). The exception argued by P.R.P. allows a party to obtain a running objection. *Id.* P.R.P. obtained a running objection during the testimony of the first witness to testify about the alleged extraneous offense. But an attempt to preserve error by using a running objection runs the risk of failing to comply with Rule 33.1. Tex.R.App. P. 33.1. Thus, an advocate who lodges a running objection should take pains to make sure it does not encompass too broad a reach of subject matter over too broad a time or over different witnesses. *Sattiewhite v. State*, 786 S.W.2d 271, 283 n. 4 (Tex.Crim.App.1989); see also *In the Interest of A.P.*, 42 S.W.3d 248, 260 (Tex.App.-Waco 2001, no pet.). P.R.P. did not object when the State introduced this same evidence through a different witness. P.R.P. failed to preserve this complaint. Thus, nothing is presented for our review. Tex.R.App. P. 33.1.

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