

Juvenile Law Case Summaries

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[2002 Case Summaries](#) [2001 Case Summaries](#) [2000 Case Summaries](#) [1999 Case Summaries](#)

Code of Criminal Procedure article 37.07 provision limiting prior offenses to post-1995 offenses does not apply to adult adjudications [Brooks v. State] (03-1-08).

On December 12, 2002, the Tyler Court of Appeals held that the provision limiting misdemeanor adjudications to those after 1995 applies only to juvenile adjudications, not to adult convictions.

03-1-08. Brooks v. State, UNPUBLISHED, No. 12-00-00326-CR, 2002 WL 31778664, 2002 Tex.App.Lexis ____ (Tex.App.-Tyler 12/1/2/02) Texas Juvenile Law (5th Ed. 2000).

Facts: Larry Brooks ("Appellant") appeals his conviction for robbery. Appellant was indicted for the offense of aggravated robbery, enhanced by two prior convictions. A jury found him guilty of robbery and found the enhancement allegations to be true. The jury assessed punishment at eighty years of imprisonment and a \$1,000.00 fine. Appellant raises four issues on appeal regarding the reporter's record, the trial court's admission of his prior convictions, and the sufficiency of the evidence against him.

The State presented evidence that Appellant was observed by a Wal Mart store manager and other store employees taking a watch from a display case, removing the packaging, and putting the watch on his wrist. Appellant was observed leaving the store without paying for the watch. Appellant tried to run away when confronted by store employees. He fought with them, pulled a knife from his pocket, and threatened the store manager. A shopper at the store testified about the altercation and stated Appellant had a knife.

Held: Affirmed.

Opinion Text: LEGAL ISSUES AND RESOLUTIONS

In his second issue, Appellant contends the trial court erred when it allowed evidence of pre 1996 misdemeanor convictions into evidence during the punishment phase of his trial. Appellant argues that the evidence was inadmissible because of the following prohibition offered by article 37.07, section 3(i) of the Texas Code of Criminal Procedure.

(i) Evidence of an adjudication for conduct that is a violation of a penal law of the grade of misdemeanor punishable by confinement in jail is admissible only if the conduct upon which the adjudication is based occurred on or after January 1, 1996.

Tex.Code Crim. Proc. Ann. art. 37.07, § 3(i).

As the State points out, a review of the record reveals that Appellant did not object to the trial court that the offenses were inadmissible under article 37.07, section 3(i). Since his argument on appeal is not supported by a proper trial objection, error, if any, is not preserved. Tex.R.App. P. 33.1. Furthermore, section 3(i) relates to juvenile misdemeanor adjudications. 43 George E. Dix & Robert O. Dawson, Texas Practice: Criminal Practice and Procedure § 38.54 (West 2d ed.2001). The misdemeanor convictions admitted into evidence are not based on conduct that occurred when Appellant was a juvenile. Therefore, section 3(i) is inapplicable. Appellant's second issue is overruled.

[2001 Case Summaries](#) [2000 Case Summaries](#) [1999 Case Summaries](#)