A trial court does not have a duty to admonish a defendant that a guilty plea has the consequence of potentially enhancing his punishment in a subsequent case. [Nash v. State](16-2-2)

On January 28, 2016, the Eastland Court of Appeals held that the fact that Appellant was, possibly, not warned by the trial court in the juvenile proceeding prior to entering a guilty plea that the adjudication might later be used for enhancement did not preclude the State from later using the adjudication for enhancement purposes.

¶ 16-2-2.  **Nash v. State**, MEMORANDUM, No. 11-13-00340—CR, 2016 WL 368353 (Tex.App.-Eastland, 1/28/2016).

**Facts:** On June 12, 2012, three armed men robbed a 7–Eleven convenience store in Wichita County. Surveillance video depicted three men in masks entering the 7–Eleven convenience store with a long rifle or shotgun, taking money from the cashier, and taking DVDs from the front counter. Appellant’s half brother, Kadeem Emmers, admitted to participating in the robbery. He identified Appellant and Appellant’s cousin, Quawannocci Moore, as his accomplices. Emmers was given a plea deal, which involved a twenty-three-year sentence for aggravated robbery, in exchange for his testimony at Appellant’s trial. Appellant’s mother, Michelle Nash, testified that the three men were at her home before the robbery, left around midnight, and returned two hours later with money and DVDs.

In his third issue, Appellant challenges the use of his prior juvenile felony adjudication to enhance the applicable punishment range for his conviction for a first-degree felony. See Thompson v. State, 267 S.W.3d 514, 517 (Tex.App.–Austin 2008, pet. ref’d) (explaining how a juvenile felony adjudication can be used to enhance the minimum punishment range for a first-degree felony). He asserts that the trial court in the juvenile proceeding failed to admonish him that a juvenile plea could be used against him in a subsequent adult adjudication. Appellant contends that the prior juvenile felony adjudication deprived him of the right to have the jury grant him community supervision because his minimum term of confinement was a term of fifteen years. See id.

At the punishment phase, the State offered into evidence various documents from the juvenile proceeding, including the stipulation of evidence, waiver of jury trial, judgment, waiver of appeal, and order of commitment. These documents indicate that Appellant was represented by counsel in the juvenile proceeding and that he did not contest the State’s allegation of delinquent conduct or the trial court’s imposition of the sentence.

**Held:** Affirmed

**Memorandum Opinion:** On appeal, Appellant is essentially making a collateral attack on his prior juvenile felony adjudication. A prior conviction used to enhance a subsequent offense may only be collaterally attacked on direct appeal of the subsequent conviction if the prior conviction is void. Rhodes v. State, 240 S.W.3d 882, 887 (Tex.Crim.App.2007). When prior convictions are collaterally attacked, the judgments reflecting those prior convictions are presumed to be regular, and the accused bears the burden of overcoming that presumption by making an affirmative showing that error occurred. Breazeale v. State, 683 S.W.2d 446, 450 (Tex.Crim.App.1985) (op. on reh’g). The presumption of regularity applies to a collateral attack of a judgment of conviction for an offense committed as a juvenile when that judgment is used to prove an enhancement allegation. Johnson v. State, 725 S.W.2d 245, 247 (Tex.Crim.App.1987).

Appellant contends that the trial court in the juvenile proceeding should have admonished him about the potential effect of his guilty plea on a subsequent criminal proceeding. However, Appellant did not provide the trial court or this court with a reporter’s record from the juvenile proceeding. Furthermore, in Green v. State, the Court of Criminal Appeals held that a trial court does not have a duty to admonish a defendant that a guilty plea has the consequence of potentially enhancing his punishment in a subsequent case. 491 S.W.2d 882, 883 (Tex.Crim.App.1973).

**Conclusion:** Thus, the fact that Appellant was, possibly, not warned by the trial court in the juvenile proceeding prior to entering a guilty plea that the adjudication might later be used for enhancement did not preclude the State from later using the adjudication for enhancement purposes. Id. We conclude that the trial court did not abuse its discretion by its implicit determination that Appellant’s prior juvenile adjudication was not void. We overrule Appellant’s third issue. We affirm the judgment of the trial court.