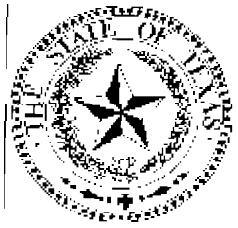
Affirmed and Opinion filed May 4, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00644-CR

JAMES GLAZIER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 183rd District Court
Harris County, Texas
Trial Court Cause No. 677436

O P I N I O N

James Glazier appeals a conviction for possession of cocaine on the ground that he could not be sentenced as a habitual offender because the judge who originally placed him on deferred adjudication did not make a finding at that time on the enhancement paragraphs contained in the indictment. We affirm

In 1993, appellant was charged by indictment with felony cocaine possession, enhanced by two prior felony convictions. In 1995, appellant entered a guilty plea and pleaded true to the enhancement paragraphs. The trial court found that the evidence substantiated appellant's guilt, deferred entering a

judgment of guilt, and placed appellant on community supervision for ten years.[1] In 1999, the State filed a motion to adjudicate guilt. After a hearing on the motion, the trial judge found appellant guilty of the felony offense of possession of a controlled substance, found the two enhancement paragraphs contained in the indictment true, and sentenced appellant to twenty-five years confinement.

In his only point of error, appellant asserts that the trial judge erred in sentencing him as an habitual offender in 1999 because there had been no finding of true on the enhancement paragraphs during the initial plea proceedings in 1995. Appellant argues that when the State relies on a defendant's plea of true to support an enhancement allegation, the record must affirmatively reflect that the plea was entered.[2] In this case, the record reflects that appellant pleaded true to the enhancement paragraphs. Appellant fails to provide us with any authority which supports his assertion that a finding of true on enhancement paragraphs must be made during the guilt phase in the plea proceeding, rather than at the punishment phase of the motion to adjudicate proceeding, as in this case. It would be illogical to require a finding to be made on the enhancement paragraphs in the original plea proceeding where there is no finding made on the charged offense at that time. Moreover, if such a finding were required to have been made at the initial plea proceeding, then appellant would have waived any complaint on the trial court's failure to do so by not raising it in an appeal after the trial court imposed deferred adjudication in 1995. *See Hardeman v. State*, 1 S.W.3d 689, 691 (Tex. Crim. App. 1999); *Manuel v. State*, 994 S.W.2d 658, 691 (Tex. Crim. App. 1999).

---

1 The trial judge also circled "N/A" in the "Findings on Enhancement" section of the "Community Supervision Order and Deferment of Adjudication of Guilt" form completed regarding appellant's plea.

2 Appellant relies on *Wilson* as authority for his argument. *See Wilson v. State*, 671 S.W.2d 524, 526 (Tex. Crim. App. 1984). However, *Wilson* dealt with the sufficiency of evidence to prove an enhancement allegation. *See id*. at 525. In *Wilson* there was no evidence that the appellant had ever pleaded true to the enhancement allegation, except for a portion of the jury charge which stated that he had. *See id*. The court concluded that a plea of true must be affirmatively reflected by evidence in the record, and the jury charge was not evidence. *See id*. at 526.

Accordingly, we overrule appellant's point of error and affirm the judgment of the trial court.

/s/ Richard H. Edelman
Justice

Judgment rendered and Opinion filed May 4, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

Do not publish — TEX. R. APP. P. 47.3(b).