

Affirmed and Opinion filed September 16, 1999.



In The

Fourteenth Court of Appeals

NO. 14-97-01393-CR

CHRISTOPHER OMAR THOMPSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 178th District Court
Harris County, Texas
Trial Court Cause No. 741,224**

OPINION

Christopher Omar Thompson appeals his conviction by a jury for murder. The jury assessed his punishment at life imprisonment, enhanced by one prior felony conviction. In one point of error, appellant contends the trial court erred in denying him the right to impeach two State's witnesses on the basis of their deferred adjudication probation. We affirm.

In the early morning hours of December 21, 1996, appellant left a night club driving his Ford Explorer. Andre Hargrove was sitting in the front passenger's seat of appellant's car, and Norez Ramon Hargrove was sitting in the back seat. Appellant blocked the path of another car

driven by Jimmy Gamble (Gamble), who had the victim, Tyrone Light, and four other passengers in the car with him. Gamble drove around appellant's stopped car, and appellant followed Gamble and started shooting at Gamble's car. Tyrone Light was killed as a result of the shooting, and two other passengers were wounded.

In his sole point of error, appellant contends the trial court abused its discretion in sustaining the State's objection to appellant's request to cross-examine Mitchell Clark and Andre Hargrove about their deferred adjudication probations. Appellant argues that by not allowing him to impeach these witnesses on the basis of their deferred adjudication probations, he has been denied the right of confrontation under the Sixth and Fourteenth Amendments to the United States Constitution.

The record shows that the prosecutor had concluded his redirect examination of Mitchell Clark, and the jury was excused for an off-record bench conference. It is unknown what objections, if any, were made by appellant's counsel during the bench conference. The record does not reveal any attempt by appellant to make an offer of proof as to what the testimony of Clark and Hargrove might have been, whether they would be biased or prejudiced because of their deferred adjudication probations, nor does the record reveal how any such testimony would have helped or hurt appellant. At the conclusion of the bench conference, the trial judge stated on the record that Mitchell Clark was currently on deferred adjudication for the offense of credit card abuse, and Andre Hargrove was on deferred adjudication for indecency with a child. The trial judge stated for the record that he was not going to allow appellant's counsel to impeach these witnesses with the fact that they were currently on deferred adjudication. The trial judge stated that appellant's counsel "has objected to my rulings not allowing him to impeach those witnesses, and the objection is overruled." Absent any offer of proof by appellant, nothing is preserved for our review. TEX. R. EVID. 103(a)(2); *Green v. State*, 840 S.W.2d 394, 407 (Tex.Crim.App.1992), *cert. denied*, 113 S.Ct. 1819 (1993); *Howard v. State*, 962 S.W.2d 119, 122 (Tex.App.–Houston[1st Dist.] 1997, *pet. ref'd*). Furthermore, denying a defendant the right to impeach a witness on the basis of the witness'

deferred adjudication probation does not deny the defendant his constitutional right of confrontation. *Jones v. State*, 843 S.W.2d 487, 496 (Tex.Crim.App.1992), *cert. denied*, 113 S.Ct. 1858 (1993); *Hoyos v. State*, 951 S.W.2d 503, 508 (Tex.App.–Houston[14th Dist.] 1997), *affirmed*, 982 S.W.2d 419 (Tex.Crim.App.1998). We overrule appellant’s sole point of error and affirm the judgment of the trial court.

/s/ Maurice Amidei
Justice

Judgment rendered and Opinion filed September 16, 1999.

Panel consists of Justices Amidei, Edelman and Wittig.

Do Not Publish — TEX. R. APP. P. 47.3(b).