Affirmed and Opinion filed October 21, 1999.

In The

Fourteenth Court of Appeals

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NO. 14-98-00299-CR
NO. 14-98-00317-CR

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ARTHUR RAYSHAN JOHNSON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 230th District Court
Harris County, Texas
Trial Court Cause Nos. 741,337 and 741,761

O P I N I O N

Appellant was charged by indictment with the offenses of aggravated sexual assault and aggravated robbery. He pleaded guilty to the charged offenses and the trial court assessed punishment at confinement for life in the Texas Department of Criminal Justice—Institutional Division and cumulated the sentences. In a single point of error, appellant contends the order cumulating the sentences is void. We will affirm.

I. Factual Summary

Appellant was charged by indictment with the offense of aggravated sexual assault in

cause no. 741,761 (appellate cause no. 14-98-317-CR). He was also charged with the offense of aggravated robbery in cause no. 741,337 (appellate cause no. 14-98-299-CR). Each indictment alleged a prior conviction for enhancement purposes. Both causes were docketed in the 230th Judicial District Court of Harris County.

On November 7, 1997, the State and appellant entered into a plea bargain agreement. Pursuant to that agreement, appellant pleaded guilty to each offense and the State abandoned the enhancement allegation in each indictment and dismissed several pending charges. Although there was no agreed recommendation as to punishment, the State reserved the right to argue that the sentence in 741,337 should be cumulated with the sentence in cause no. 741,761. The State formalized its intention to seek cumulated sentences by filing a written motion for same in cause no. 741,337. The trial court withheld a finding of guilt and the trial was recessed for the preparation of a presentence report.

On February 26, 1998, appellant's trial reconvened and the trial court assessed punishment in both cases at confinement for life in the Texas Department of Criminal Justice—Institutional Division. The judgment in cause no. 741,761, in a section entitled "SPECIAL INSTRUCTIONS OR NOTES:" states the following: "Court ordered this case to run consecutive with case no. 741,337."[1]

II. Validity of the Cumulation Order.

Appellant contends the cumulation order is void because of its lack of specificity and, therefore, the sentences should run concurrently.

In *Phillips v. State*, 488 S.W.2d 97, 99 (Tex. Crim. App.1972), the Court of Criminal Appeals specified that a cumulation order should contain the following items:

1. The cause number of the prior conviction;

2. The correct name of the court in which the prior conviction occurred;

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[1] Attached to the judgment is the "JUDGMENT ADDENDUM." A portion of the addendum relates to the cumulation of sentences. However, this portion of the addendum is blank. The addendum apparently was provided to comply with the requirements of the Sexual Offender Registration program.

3. The date of the prior conviction; and

4. The term of years assessed in the prior case.

These items, however desirable, are not essential for a valid cumulation order. For example, in *Ex parte Lewis*, 414 S.W.2d 682 (Tex. Crim. App.1967), the Court of Criminal Appeals held that a cumulation order referring only to the previous conviction's cause number was sufficient when the trial court entering the order was the same court which heard the prior cause. *Id*. at 683 (citing *Ex parte Ogletree*, 168 Tex. Crim. 429, 328 S.W.2d 446, 447 (1959); and, *Ex parte Lee*, 161 Tex. Crim. 398, 278 S.W.2d 137 (1955)). The holding in *Lewis* has not been disturbed and was recently restated in *Ex parte San Migel*, 973 S.W.2d 310 (Tex. Crim. App. 1998).

While the cumulation order does not contain the specificity recommended by Phillips, in light of the holding in *Lewis* we cannot say the order is void. Because the trial court that ordered the sentences cumulated was the same trial court that heard both causes, we overrule appellant's sole point of error.[2]

The judgments of the trial court are affirmed.

/s/ Charles F. Baird
Justice

Judgment rendered and Opinion filed October 21, 1999.

Panel consists of Justices Yates, Fowler, and Baird.[3]

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[2] This holding does not preclude appellant from later seeking habeas relief which is proper if the applicant can show that the cumulation order was not sufficiently specific and he is being harmed by this lack of specificity. *See Ex parte San Migel*, 973 S.W.2d 310, 311 (Tex. Crim. App. 1998).

[3] Former Judge Charles F. Baird sitting by assignment.