

Affirmed and Opinion filed October 21, 1999.



In The

Fourteenth Court of Appeals

NO. 14-98-00421-CR

ERNESTO MORAN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 174th District Court
Harris County, Texas
Trial Court Cause No. 762,769**

OPINION

Ernesto Moran, appellant, pleaded guilty to aggravated robbery and was sentenced to 5 years' confinement. He raises two points of error. We affirm.

In his first point of error, appellant contends that the trial court was unaware of the consequences of a five year sentence, as opposed to a sentence of deferred adjudication or less. Inasmuch as he is a Salvadoran immigrant, appellant argues, the five year sentence is grounds for deportation and the court should have taken this into consideration.

Appellant's point of error invites this court to speculate as to what the trial court may or may not have considered, and we decline to do this. *See Jackson v. State*, 877 S.W.2d 768, 771 (Tex. Crim. App. 1984). Moreover, appellant fails to cite any authority that would have required the trial court to consider deportation as a consequence in assessing punishment. It has been recognized that deportation is a collateral consequence of a guilty plea, and that ignorance of collateral consequences of a plea does not render the plea involuntary or establish ineffective counsel. *Ex Parte Morrow*, 952 S.W.2d 530, 536 (Tex. Crim. App. 1997), *cert. denied*, ___U.S. ___, 119 S.Ct. 40 (1998). We note that the trial court complied with TEX. CODE CRIM. PROC. ANN. Art. 26.13(a)(4), and warned appellant, both orally and in written form initialed and signed by appellant, that if he was not a U.S. citizen, his guilty plea could result in his deportation.

Appellant's first point of error is overruled.

Appellant's second point of error raises ineffective assistance of counsel, alleging that his trial counsel failed to research immigration law. The standard of review for evaluating claims of ineffective assistance of counsel at the punishment phase of trial is whether appellant received reasonably effective assistance of counsel as gauged by the totality of the circumstances, including pretrial, guilt-innocence and the punishment phases of trial. *Ex Parte Walker*, 777 S.W.2d 427, 431 (Tex. Crim. App. 1989).

Appellant bears the burden to prove ineffective assistance of counsel, and he must overcome the presumption that, under the circumstances, the challenged action might be considered sound trial strategy. *Id.* Allegations of ineffective assistance of counsel will be sustained only if they are firmly grounded and affirmatively demonstrated in the record. *See McFarland v. State*, 928 S.W.2d 482, 500 (Tex. Crim. App. 1996).

Appellant's argument is that his trial counsel failed to research immigration law. There is nothing in the record to establish what appellant's trial counsel researched or failed to research, and, as we previously stated, we will not engage in speculation. *Jackson*, 877 S.W.2d at 771. Again, deportation is a collateral consequence of a guilty plea, and ignorance of

collateral consequences or a plea will not render the plea involuntary or establish ineffective counsel. *Ex Parte Morrow*, 952 S.W.2d 530, 536 (Tex. Crim. App. 1997), *cert. denied*, ___U.S.___, 119 S.Ct. 40 (1998). Appellant has failed to meet the burden of establishing ineffectiveness of counsel.

Appellant's second point of error is overruled.

The judgment below is affirmed.

D. Camille Hutson-Dunn
Justice

Judgment rendered and Opinion filed October 21, 1999.

Panel consists of Justices Draughn, Lee and Hutson-Dunn.*

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

* Senior Justices Joe L. Draughn, Norman Lee and D. Camille Hutson-Dunn sitting by assignment.