

AFFIRMED; Opinion Filed June 2, 2020



**In The
Court of Appeals
Fifth District of Texas at Dallas**

**No. 05-19-00616-CR
No. 05-19-00617-CR
No. 05-19-00618-CR
No. 05-19-00619-CR
No. 05-19-00620-CR**

**GABINO ALBERTO ARBALLO, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 219th Judicial District Court
Collin County, Texas
Trial Court Cause Nos. 219-83311-2018, 219-84196-2018, 219-84197-2018,
2019-84547-2018, 219-84548-2018**

MEMORANDUM OPINION

Before Justices Schenck, Molberg, and Nowell
Opinion by Justice Nowell

Gabino Alberto Arballo pleaded guilty to five offenses: burglary of a habitation, delivery of a controlled substance (two charges), and aggravated robbery (two charges). The trial court sentenced him to forty years' confinement for each aggravated robbery charge and fifteen years' confinement for each remaining offense. In a single issue, appellant argues the trial court abused its discretion by sentencing him to terms of imprisonment because the terms of incarceration violate

the penal code's rehabilitation objective; the sentences do not address his mental health challenges, including bipolar disorder, ADHD, and drug use. We affirm the trial court's judgments.

Section 1.02 of the penal code states the general purposes of the code "are to establish a system of prohibitions, penalties, and correctional measures to deal with conduct that unjustifiably and inexcusably causes or threatens harm to those individual or public interests for which state protection is appropriate." TEX. PENAL CODE § 1.02. To accomplish that end, the code shall be construed to have six objectives, including insuring public safety through the deterrent influence of penalties, rehabilitation, and punishment to prevent likely recurrence of criminal behavior. *See id.* § 1.02(1).

We "give a great deal of discretion to a trial judge's determination of the appropriate punishment in any given case." *Foster v. State*, 525 S.W.3d 898, 911 (Tex. App.—Dallas 2017, pet. ref'd) (citing *Jackson v. State*, 680 S.W.2d 809, 814 (Tex. Crim. App. 1984)); *see also Tapia v. State*, 462 S.W.3d 29, 46 (Tex. Crim. App. 2015) (trial judge has wide latitude to determine appropriate sentence). Generally, as long as the sentence is within the proper range of punishment, it will not be disturbed on appeal. *Foster*, 525 S.W.3d at 911 (citing *Jackson*, 680 S.W.2d 814).

Appellant entered each plea after the trial court advised him of the sentencing range for each offense, and appellant acknowledged he understood the sentencing parameters. During the sentencing proceeding, Erin Perry testified. She was appellant's probation officer in 2016 and 2017 while he was on deferred adjudication community supervision for burglary of a habitation. She testified she remembered appellant "[b]ecause from initial contact when he very first started probation up to my last contact with him, he was verbally assaultive, aggressive and disrespectful." He used vulgar language when speaking to her. While on community supervision, he forged a time sheet to misrepresent community service hours worked, tested positive for drugs, failed to complete life skills classes, and did not obtain his GED as required. He also was arrested for assault family violence against his mother; the charge was dismissed. He was arrested a second time on the charges to which he pleaded guilty and that are the subject of this appeal. When asked whether appellant was a good candidate for community supervision, Perry stated: "Not at all. He is not suitable for supervision."

Appellant concedes his sentences are within the statutorily authorized ranges. Although rehabilitation is one of the objectives of the penal code, the other two are deterrence and punishment. *See* TEX. PENAL CODE § 1.02(1). Under the facts and circumstances of this case, we conclude the trial court did not abuse its discretion by imposing a term of incarceration in each case. Moreover, we cannot conclude

appellant's sentences violate the objectives of the penal code. We overrule appellant's sole issue.

We affirm the trial court's judgments.

/Erin A. Nowell/

ERIN A. NOWELL
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GABINO ALBERTO ARBALLO,
Appellant

No. 05-19-00616-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 219th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 219-83311-
2018.

Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 2nd day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GABINO ALBERTO ARBALLO,
Appellant

No. 05-19-00617-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 219th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 219-84196-
2018.

Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 2nd day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GABINO ALBERTO ARBALLO,
Appellant

No. 05-19-00618-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 219th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 219-84197-
2018.

Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 2nd day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GABINO ALBERTO ARBALLO,
Appellant

No. 05-19-00619-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 219th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 219-84547-
2018.

Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 2nd day of June, 2020.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GABINO ALBERTO ARBALLO,
Appellant

No. 05-19-00620-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 219th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 219-84548-
2018.

Opinion delivered by Justice Nowell.
Justices Schenck and Molberg
participating.

Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered this 2nd day of June, 2020.