

Affirmed and Opinion filed May 25, 2000.



In The

## **Fourteenth Court of Appeals**

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**NO. 14-98-00900-CR**

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**RICHARD WAYNE HENDERSON, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 232<sup>nd</sup> District Court  
Harris County, Texas  
Trial Court Cause No. 758,560**

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### **O P I N I O N**

Appellant Richard Wayne Henderson was convicted on his plea of guilty to aggravated robbery. In two points of error he contends he is entitled to a new trial because the trial court did not grant his request that the proceedings be transcribed, and argues the trial court abused its discretion in not granting him deferred adjudication. We affirm the judgment of the trial court.

Appellant first contends that he is entitled to a new trial because his guilty plea was not recorded. He notes that on the admonishments before the guilty plea, he struck through the item waiving the court reporter; the docket sheet contains an entry to the contrary. However, appellant must show that he brought this to the trial court's attention. Nothing in our record shows he objected to the absence of a

court reporter, which is necessary to preserve this error. *See Williams v. State*, 937 S.W.2d 479, 486 (Tex. Crim. App. 1996). At the very least, a motion for new trial would show that the trial court was given a chance to correct the error. In the absence of an objection, nothing is presented for review. We overrule appellant's first point of error.

In his second point of error appellant contends the trial court erred in not granting him probation or deferred adjudication. We disagree. "The question of whether an accused is entitled to probation, where the court assesses punishment, rests absolutely within the trial court's discretion under the guideposts of the statute and no authority exists for the accused to require such clemency." *Rodriguez v. State*, 502 S.W.2d 13, 14 (Tex. Crim. App. 1973). While *Rodriguez* was not decided in the context of a request for deferred adjudication, we see no reason why deferred adjudication should be treated differently. We overrule his second point of error and affirm the judgment of the trial court.

/s/ D. Camille Hutson-Dunn  
Justice

Judgment rendered and Opinion filed May 25, 2000.

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

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

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