Affirmed and Opinion filed August 3, 2000.

In The

Fourteenth Court of Appeals

NO. 14-99-00264-CR

KENNETH DWIGHT HADNOT, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 184th District Court
Harris County, Texas
Trial Court Cause No. 765,961

O P I N I O N

Appellant, Kenneth Dwight Hadnot, was convicted by a jury of murder. Hadnot was sentenced to sixty years incarceration in the Texas Department of Criminal Justice, Institutional Division. In his sole point of error, Hadnot complains that the trial court committed reversible error by instructing the jury that he would be eligible for early release through the award of good conduct time. We affirm.

I.

Background

The record demonstrates the following facts which the appellant does not dispute on appeal. Late one evening, Quitoria Smith, his brother Daven Smith, and Robert Houston were standing near an apartment building. The three individuals noticed two cars driving down the street in front of the apartments at high speeds with high beam headlights. The cars suddenly stopped at a corner nearby and several gunshots were fired from both cars toward the three individuals. Appellant, Hadnot, was an occupant of one of the cars and he shot at Quitoria Smith, striking him in the back of the head and killing him instantly. Appellant was charged with murder and a jury found him guilty, assessing punishment at sixty years confinement and a $10,000 fine.

II.

Good Conduct Time Instruction

During the punishment phase of trial, the court included the following instruction as mandated by article 37.07 (4) of the Texas Penal Code:

> Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time….
>
> It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.
>
> Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-half of the sentence imposed or thirty years, whichever is less, without consideration of any good conduct time he may earn. Eligibility for parole does not guarantee that parole will be granted.

We review a jury charge for error by undertaking a two-step analysis. First, we determine whether error exists in the charge. *See Hutch v. State*, 922 S.W.2d 166, 170-71 (Tex. Crim. App. 1996). If there is error, we proceed to determine whether the harm caused by the error is sufficient to require reversal. *Id.* Appellant claims it was error for the trial court to read the instruction above because the aggravated status of his crime precludes him from receiving good conduct time. We disagree. Appellant's assertion is based on section 508.149 of the Texas Government Code. Appellant correctly asserts that under that section, inmates convicted of certain offenses, including murder, are ineligible for mandatory supervision.

TEX. GOV'T CODE ANN. § 508.149(a)(2) (Vernon 2000). However, the instruction does not mention mandatory supervision.

The effect of appellant's aggravated offense was to require him to serve half his sentence before any good conduct time he may earn could be applied toward early release. As the instruction clearly explained, early release through the award of good conduct time was postponed, not precluded. Also, the jury was instructed that the award of good conduct time cannot be predicted and should not be considered with regard to appellant's particular case. Absent evidence to the contrary, we must presume the jury understood and followed the law as stated in the charge. *See Hutch*, 922 S.W.2d at 170. We find no error, egregious or otherwise, with the instruction. Accordingly there is no need to perform a harm analysis. *Id.* at 170-71.

Challenges to this instruction on due process grounds have failed in the past. *See Muhammad v. State*, 830 S.W.2d 953, 956 (Tex. Crim. App. 1992); *see also Edwards v. State*, 10 S.W.3d 699, 705 (Tex. App.—Houston [14th Dist.] 1999, pet. granted). We see no reason to reach a different conclusion in this case and we overrule appellant's sole point of error.

The judgment of the trial court is affirmed.

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John S. Anderson
Justice

Judgment rendered and Opinion filed August 3, 2000.
Panel consists of Justices Amidei, Anderson, and Frost.
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