



In The
Eleventh Court of Appeals

No. 11-16-00089-CR

ERIC ISAAH AGUIRRE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 238th District Court
Midland County, Texas
Trial Court Cause No. CR41896**

MEMORANDUM OPINION

Eric Isaiah Aguirre appeals the trial court's decision to revoke his community supervision, sentence him to confinement for five years, and impose a \$10,000 fine. The grand jury indicted Appellant for the offense of aggravated assault with a deadly weapon,¹ to which he pleaded not guilty. At trial, the jury found him guilty of

¹A person commits the second-degree felony offense of aggravated assault with a deadly weapon if he uses or exhibits a deadly weapon during the commission of an assault. TEX. PENAL CODE ANN. § 22.02(a)(2), (b) (West 2011).

aggravated assault with a deadly weapon and assessed punishment at confinement for five years and a \$10,000 fine.² However, the jury recommended that the trial court suspend Appellant's sentence and fine and place him on community supervision. The trial court adopted the jury's recommendation and placed Appellant on community supervision for ten years.

Later, the State moved to revoke Appellant's community supervision and alleged that Appellant had violated several terms and conditions of his community supervision. In one issue, Appellant asserts that the trial court abused its discretion when it revoked his community supervision and sentenced him. We affirm.

I. *Evidence at Revocation Hearing*

The State moved to revoke Appellant's community supervision based on nine alleged violations of the terms and conditions of his community supervision. At the revocation hearing, Appellant pleaded true to six of those allegations. He pleaded "true" that he failed to (1) report to the Midland County Community Supervision and Corrections Department as required, (2) pay all supervision fees and court costs, (3) abstain from any use of illegal or controlled substances, (4) perform community service hours, (5) attend drug classes, and (6) submit to drug and alcohol testing. The trial court found those alleged violations to be "true" and also found the three additional alleged violations to be "true."

II. *Standard of Review*

The State has the burden to prove, by a preponderance of the evidence, that Appellant violated the terms and conditions of his community supervision. *Rickels v. State*, 202 S.W.3d 759, 763–64 (Tex. Crim. App. 2006). Proof of a single violation of the terms and conditions of community supervision is sufficient for the

²An individual adjudged guilty of a felony in the second degree shall be punished by imprisonment for any term of not more than twenty years or less than two years, and a fine not to exceed \$10,000 may also be imposed. *Id.* § 12.33.

trial court to revoke community supervision. *Sanchez v. State*, 603 S.W.2d 869, 871 (Tex. Crim. App. [Panel Op.] 1980); *Sanchez v. State*, No. 11-15-00218-CR, 2016 WL 4238603, at *1 (Tex. App—Eastland Aug. 4, 2016, no pet.) (mem. op., not designated for publication). In this regard, a plea of true standing alone is sufficient to support a trial court’s decision to revoke community supervision. *Moses v. State*, 590 S.W.2d 469, 470 (Tex. Crim. App. [Panel Op.] 1979). If the defendant violated one term of community supervision, which the trial court finds “true,” then the trial court does not abuse its discretion when it revokes community supervision. *See Sanchez*, 603 S.W.2d at 871. When a trial court revokes community supervision, it may dispose of the case as if there had been no community supervision. TEX. CODE CRIM. PROC. ANN. art. 42.12, § 23(a) (West Supp. 2016).

III. *Analysis*

In one issue on appeal, Appellant asserts multiple complaints. First, Appellant argues that the trial court improperly rendered its decision because it acted in an arbitrary and unreasonable way. Second, he argues that his punishment was unduly excessive and harsh and was improper for his “relatively minor” “status” violations; he also asserted that the trial court was prejudiced against him.

A. The trial court had the discretion to revoke Appellant’s community supervision.

If the trial court finds that the defendant violated one term of community supervision, then it does not abuse its discretion when it revokes community supervision. *See Sanchez*, 603 S.W.2d at 871. Here, Appellant pleaded “true” to multiple violations, which the trial court could have used as a basis to revoke his community supervision. *See Moses*, 590 S.W.2d at 470; *see also Flournoy v. State*, 589 S.W.2d 705, 708 (Tex. Crim. App. [Panel Op.] 1979). Once the trial court found that Appellant had violated at least one of the terms of his community supervision, it could revoke community supervision and impose the original punishment. *See*

CRIM. PROC. art. 42.12, § 23(a); *Sanchez*, 603 S.W.2d at 871. The trial court also had the discretion to continue, modify, or revoke community supervision. *See Flournoy*, 589 S.W.2d at 708. After Appellant pleaded “true” to multiple violations, the trial court exercised its discretion to revoke Appellant’s community supervision. The trial court did not abuse its discretion when it revoked Appellant’s community supervision. *See Sanchez*, 603 S.W.2d at 871. Therefore, the trial court’s actions were not arbitrary and unreasonable.

B. The punishment assessed by the trial court was not “unduly excessive and harsh” even though Appellant had not committed additional crimes of violence.

Because Appellant did not raise this complaint to the trial court, he has not preserved this issue for appellate review. TEX. R. APP. P. 33.1(a)(1)(A). However, even if he had properly preserved this issue, the punishment was not “unduly excessive and harsh.” Appellant’s sentence was for his original conviction, not for any violations of his community supervision. A jury convicted Appellant of the offense of aggravated assault with a deadly weapon and assessed his punishment at confinement for five years and a \$10,000 fine, but Appellant’s punishment was suspended for a term of ten years, during which he was to abide by the terms and conditions of his community supervision. Upon his violation of those terms and conditions and the revocation of his community supervision, the trial court merely imposed the sentence that had originally been assessed. The trial court acted within its discretion in doing so. *See CRIM. PROC. art. 42.12, § 23(a)*. Any decision to reduce a defendant’s sentence under these circumstances is left to the sound discretion of the trial court. *See id.*; *Cannon v. State*, 537 S.W.2d 31, 32 (Tex. Crim. App. 1976). Moreover, contrary to Appellant’s assertion, nothing in the record reflects that the trial court was prejudiced against him. We overrule Appellant’s sole issue on appeal.

IV. This Court's Ruling

We affirm the judgment of the trial court.

MIKE WILLSON
JUSTICE

May 18, 2017

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.