

Affirmed and Memorandum Opinion filed May 6, 2010.



In The

Fourteenth Court of Appeals

NO. 14-09-00608-CR

JORGE LUIS SOSA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 183rd District Court
Harris County, Texas
Trial Court Cause No. 1130386**

MEMORANDUM OPINION

Appellant Jorge Luis Sosa appeals from the trial court's judgment adjudicating his guilt and revoking his community supervision. In two issues, he argues the trial court abused its discretion in revoking his community supervision because (1) one of the conditions of community supervision was not specific and did not contain adequate notice to appellant, and (2) a written communication by appellant was improperly admitted into evidence because it was not authenticated. We affirm.

Factual and Procedural Background

In 2008, appellant entered a plea of guilty to the offense of aggravated sexual assault of a child. After a presentence investigation hearing, the trial court deferred a finding of guilt and placed appellant on community supervision for ten years. As a condition of his community supervision, appellant agreed “**not to contact the complainant**, [K.W.], in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court.” Appellant further agreed “**to have no contact with any minor under the age of seventeen (17) beginning AUGUST 7, 2008** for any reason except as specifically permitted by the Court except supervised contact with biological son, [T.P.S.] . . . with an approved court chaperone as directed by Supervision Officer. **No contact with biological daughter.**”¹

The State subsequently filed a motion to adjudicate appellant’s guilt, alleging appellant violated his conditions of community supervision by mailing a birthday card to his biological daughter. At the hearing on the State’s motion, appellant entered a plea of true to the State’s allegations. The State presented the testimony of the complainant in the underlying charge. She was familiar with appellant’s handwriting and recognized it on the birthday card mailed to her half-sister, appellant’s biological daughter. Appellant’s attorney conducted a voir dire examination of the complainant prior to the admission of the birthday card. Appellant’s counsel questioned the complainant about her familiarity with appellant’s handwriting, but did not object to the admission of the birthday card into evidence.

During his closing argument, appellant argued that the conditions of his community supervision were vague because “no contact generally means [no] physical contact” and that appellant did not understand that he could not send his daughter a birthday card. The trial court reminded appellant that at the time of his guilty plea, the court admonished him

¹ Emphasis in original.

that “no contact means no contact.” At that time, the court went on to explain, “That means no mail. That means no phone calls. That means no telling someone to tell someone . . . no texting, no Twittering, no Skyping.” The trial court adjudicated appellant’s guilt and sentenced him to 25 years in prison.

Standard of Review

An order revoking community supervision is subject to an abuse-of-discretion standard of review. *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). An appellate court affords almost total deference to a trial court’s determination of the historical facts supported by the record, especially when the trial court’s fact findings are based on an evaluation of credibility and demeanor. *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997).

Conditions of Community Supervision

In his first issue, appellant argues the trial court abused its discretion in revoking his community supervision because the condition that required him to have no contact with his biological daughter was vague and non-specific. Appellant, however, waived this issue by failing to raise it at the time of his original plea.

An award of community supervision is a contractual privilege entered into between a court and a defendant. *Speth v. State*, 6 S.W.3d 530, 534 (Tex. Crim. App. 1999). A defendant cannot challenge a condition of community supervision for the first time at a revocation proceeding. *Id.* at 535; *In re V.A.*, 140 S.W.3d 858, 860 (Tex. App.—Fort Worth 2004, no pet.). Because appellant failed to object or otherwise raise the purported vagueness of this condition at the time community supervision was awarded, we overrule his first issue.

Admission of Evidence

In his second issue, appellant argues the trial court erred in admitting the birthday card into evidence because it was not properly authenticated. To preserve a complaint for appeal, a party must have presented to the trial court a timely objection, on which the court ruled. Tex. R. App. P. 33.1; *Mendez v. State*, 138 S.W.3d 334, 341 (Tex. Crim. App. 2004). Although appellant questioned the complainant about how she was able to recognize appellant's handwriting, he made no objection to the admission of the birthday card. Because appellant failed to preserve error, we overrule his second issue.

The judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Anderson, Frost, and Seymore.

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