

NO. 12-10-00400-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>LORI LYNN PINON,</i>	§	<i>APPEAL FROM THE 411TH</i>
<i>APPELLANT</i>		
 V.	§	 <i>JUDICIAL DISTRICT COURT</i>
 <i>THE STATE OF TEXAS,</i>		
<i>APPELLEE</i>	§	 <i>TRINITY COUNTY, TEXAS</i>

MEMORANDUM OPINION

Lori Lynn Pinon appeals the revocation of her community supervision. In her sole issue, Appellant argues that the evidence is insufficient to support the trial court’s revocation order. We affirm.

BACKGROUND

Appellant was charged by indictment with the offense of fraud. She pleaded guilty pursuant to a plea agreement, and the trial court placed her on deferred adjudication community supervision for four years.

Subsequently, the State filed a motion to adjudicate guilt. In its second amended motion, the State alleged that Appellant violated two conditions of her community supervision by committing theft and failing to pay community supervision fees. Appellant pleaded “not true” to the allegations in the State’s motion to adjudicate.

After an evidentiary hearing, the trial court found “true” the State’s allegation that Appellant was delinquent in paying fees. Accordingly, the trial court adjudicated Appellant guilty and assessed punishment of imprisonment for three years. This appeal followed.

REVOCATION OF COMMUNITY SUPERVISION

In her sole issue, Appellant argues that the evidence is insufficient to sustain the revocation based upon her failure to pay community supervision fees.

Standard of Review

We review a trial court's order revoking community supervision under an abuse of discretion standard. See ***Rickels v. State***, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). In a community supervision revocation proceeding, the state has the burden of proving a violation of the terms of community supervision by a preponderance of the evidence. See ***Rickels***, 202 S.W.3d at 763-64; ***Cobb v. State***, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993). The state meets its burden when the greater weight of the credible evidence creates a reasonable belief that the defendant violated a condition of community supervision as alleged. See ***Rickels***, 202 S.W.3d at 764; ***Jenkins v. State***, 740 S.W.2d 435, 437 (Tex. Crim. App. 1983). In a hearing on a motion to revoke community supervision, the trial court is the sole trier of fact, and is also the judge of the credibility of the witnesses and the weight to be given their testimony. ***Taylor v. State***, 604 S.W.2d 175, 179 (Tex. Crim. App. 1980); ***Trevino v. State***, 218 S.W.3d 234, 240 (Tex. App.—Houston [14th Dist.] 2007, no pet.). Furthermore, on appeal, we examine the evidence in the light most favorable to the trial court's ruling. ***Garrett v. State***, 619 S.W.2d 172, 174 (Tex. Crim. App. [Panel Op.] 1981); ***Duncan v. State***, 321 S.W.3d 53, 57 (Tex. App. —Houston [1st Dist.] 2010, pet ref'd).

The testimony of a probation officer that a defendant is delinquent in paying fees has been found sufficient to support a trial court's decision to revoke community supervision. See e.g., ***Reed v. State***, No. 05-01-01775-CR, 2003 WL 176346, at *4 (Tex. App.—Dallas Jan. 28, 2003, no pet.) (op., not designated for publication); ***Turner v. State***, No. 05-02-00329-CR, 2002 WL 31151226, at *2 (Tex. App.—Dallas, Sept. 27, 2002, no pet.) (not designated for publication).

Analysis

Probation officer Teresa Ray testified that she asked the district attorney's office to file a motion to adjudicate guilt because among other things, "[Appellant] was delinquent on fees." Appellant argues that this statement did not address which fees were delinquent, the amount of the alleged delinquency, or how long it took to call a fee delinquent. Although sparse, this testimony is sufficient to support the trial court's decision to revoke Appellant's community supervision. See ***Reed***, 2003 WL 176346, at *4; ***Turner***, 2002 WL 31151226, at *2. Further, the trial court, sitting as finder of fact, found this testimony credible and gave it great weight, which was within its

prerogative as fact finder. See *Taylor*, 604 S.W.2d at 179; *Trevino*, 218 S.W.3d at 240.

Viewing the evidence in the light most favorable to the trial court's ruling and keeping in mind the lesser preponderance of the evidence standard, we conclude that the evidence is sufficient to show that Appellant failed to pay her community supervision fees as required under the conditions of her community supervision. Accordingly, the trial court did not abuse its discretion in revoking Appellant's community supervision based upon nonpayment of fees.

DISPOSITION

Having overruled Appellant's sole issue, we *affirm* the judgment of the trial court.

SAM GRIFFITH
Justice

Opinion delivered September 7, 2011.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)