Affirmed as modified; Opinion Filed December 18, 2017.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-01001-CR

No. 05-16-01002-CR

No. 05-16-01003–CR

No. 05-16-01004-CR

No. 05-16-01005-CR

No. 05-16-01006-CR

No. 05-16-01007-CR

No. 05-16-01008-CR

No. 05-16-01009-CR

ROCKY CORONADO, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F14-00535-T, F14-00536-T, F14-00537-T, F14-56962-T, F14-56967-T, F14-56969-T, F14-76064-T, F14-76111-T, and F14-76115-T

MEMORANDUM OPINION

Before Justices Francis, Myers, and Whitehill
Opinion by Justice Myers

Appellant Rocky Coronado appeals his adjudications of guilt and subsequent sentences in nine cases involving aggravated kidnapping;[1] aggravated assault with a deadly weapon;[2] burglary

[1] Causes 05-16-01001-CR, 05-16-01002-CR, and 05-16-01003–CR.

[2] Causes 05-16-01005-CR, 05-16-01006-CR, 05-16-01007-CR, and 05-16-01008-CR.

of a habitation with intent to commit aggravated assault;[3] and violation of a protective order by committing assault.[4] The victims in these cases were members of appellant's family, including his wife, his sons, and his sister-in-law. The trial court sentenced appellant to twenty years' confinement in each case, with the exception of the violation of the protective order case, in which it sentenced appellant to ten years' confinement. Appellant brings five issues, alleging a lack of notice, vague and ambiguous terms of community supervision, a failure to prove identity, a failure to grant a motion for new trial that was supported by affidavit, and insufficient evidence. The State also brings a cross-issue asking us to modify the judgments in four of the cases. As modified, we affirm the trial court's judgments.

BACKGROUND AND PROCEDURAL HISTORY

Appellant entered into plea agreements with the State in which he pleaded guilty to the charged offenses and agreed to affirmative family violence and deadly weapon findings. At a consolidated plea hearing, the trial court accepted the guilty pleas, found he had entered his pleas freely and voluntarily, and found the evidence was sufficient to find him guilty beyond a reasonable doubt. The trial court deferred a finding of guilt and placed appellant on five years' deferred adjudication community supervision in each case. The trial court made a finding "in each case" that the offense involved family violence and that appellant used or exhibited a deadly weapon during the commission of the offense. As part of appellant's deferred adjudication, the trial court ordered him to comply with various terms and conditions of community supervision, including participation in a high-risk caseload for an indeterminate period of time and be subject to house arrest and Global Positioning System (GPS) monitoring for a period of 180 days (condition T); participation in a domestic violence treatment program,

[3] Cause 05-16-01004-CR.

[4] Cause 05-16-01009-CR.

the "Batterers Intervention Prevention Program" (BIPP) (condition U); and participation in the "Felony Domestic Violence Program and faithfully comply with all rules, regulations and treatment objectives therein until successfully released by the court" (condition W).

On November 12, 2015, the trial court modified the conditions of appellant's community supervision and ordered him to serve a term of confinement in a State of Texas Intermediate Sanctions Facility (ISF) in the "Substance Abuse Treatment Track Program." When appellant was released from the ISF program in March of 2016, the trial court ordered him to be continued on community supervision and once again ordered him to be placed on GPS monitoring. Appellant entered into a GPS monitoring contract with Recovery Healthcare Corporation (RHC) on March 31, 2016.

The State subsequently filed a motion to proceed with an adjudication of guilt in each case, alleging appellant violated a number of conditions of his community supervision, including conditions U and W:

> (U) ROCKY CORONADO did violate condition (U) in that s(he) did not participate in a domestic violence program (BIPP) through a court approved resource as ordered by the court. The defendant did not attend BIPP on the following dates: 10/19/2015, 04/18/2016, 04/25/2016 and 05/02/2016.
>
> (W) ROCKY CORONADO did violate condition (W) in that s(he) did not participate in the Felony Domestic Violence Program and faithfully comply with all rules, regulations and treatment directives therein until successfully released by the court. The defendant failed to abide by the GPS monitoring participation agreement on the following dates: 4/13/2016, 4/19/2016 and 6/11/2016.

At the August 4, 2016 adjudication hearing, appellant entered pleas of not true to the State's allegations. The trial court heard testimony from appellant, appellant's wife, Michael Carroll (appellant's probation officer), Crystal Lopez (appellant's BIPP facilitator), and Eyvette Boyd (the RHC employee in charge of monitoring appellant's GPS compliance). The trial court found appellant violated conditions U and W of his community supervision, adjudicated appellant's

guilt, and sentenced him to twenty years' confinement in each case but ten years' confinement in the protective order case. Appellant's motions for new trial were overruled by operation of law.

DISCUSSION

1. Notice of the Alleged Violations

In his first issue, appellant contends the motions to adjudicate were defective because they did not provide notice of the alleged violations by failing to state the time, place, and nature of the alleged violations.

Appellant, however, did not present this argument to the trial court. *See* TEX. R. APP. P. 33.1(a); *Gordon v. State*, 575 S.W.2d 529, 531 (Tex. Crim. App. 1978) (when appellant raises lack of adequate notice in a motion to revoke, he must file a motion to quash to preserve error.); *McFarlin v. State*, 661 S.W.2d 201, 203 (Tex. App.—Houston [1st Dist.] 1983, no pet.) (absent a motion to quash, the sufficiency of the motion to revoke cannot be raised for the first time on appeal); *see also Wilson v. State*, 71 S.W.3d 346, 349 (Tex. Crim. App. 2002) (issue on appeal must comport with a proper trial objection.). The record does not reflect that appellant filed a motion to quash the State's motion to adjudicate or objected at the adjudication hearing that the motion provided him with insufficient notice of the alleged violations of his community supervision. As a result, appellant failed to preserve this issue for appellate review.

Moreover, "[t]he allegations in a motion to revoke need not be alleged with the same particularity required in an indictment or information, but must fully and clearly set forth the alleged violations of probation so that the defendant might be informed as to what he will be called to defend against." *Labelle v. State*, 720 S.W.2d 101, 104 (Tex. Crim. App. 1986). In order to comport with due process requirements, "the motion to revoke must give the defendant fair notice of the violation." *Id.* In this case, appellant does not claim to have been misled or surprised by the State's contention that he violated the terms of his community supervision, and

nothing in the record indicates appellant did not receive adequate notice of the State's allegations against him. The motions stated that appellant violated condition U by failing to attend BIPP classes on four specific dates, and violated condition W by failing to abide by the rules of the Felony Domestic Violence Program—i.e., by failing to abide by the terms of his GPS monitoring contract on specific dates. Because the motions to adjudicate provided fair notice to appellant of the alleged violations, he received proper notice. We overrule appellant's first issue.

2. The Terms of Community Supervision

In his second issue, appellant argues the terms of community supervision were so vague and ambiguous that they could not be followed successfully.

An award of community supervision is not a right, but is a contractual privilege, and the conditions of community supervision agreed to by the defendant are the terms of the contract entered into between him and the trial court. *Speth v. State*, 6 S.W.3d 530, 534 (Tex. Crim. App. 1999). If a defendant fails to object to conditions of probation at trial, he affirmatively accepts them and is barred from complaining about them for the first time on appeal. *See* TEX. R. APP. P. 33.1(a); *Speth*, 6 S.W.3d at 534; *McNeal v. State*, No. 05–11–01155–CR, 2012 WL 1976450, at *1 (Tex. App.—Dallas June 4, 2012, no pet.) (mem. op., not designated for publication). The only exceptions that have been recognized involve situations where the probationer has effectively been denied the opportunity to object, such as a modification of the conditions of community supervision without a hearing. *See Rickels v. State*, 108 S.W.3d 900, 902 (Tex. Crim. App. 2003).

In this case, appellant did not object at trial to the imposition of the conditions of community supervision. The trial court later adjudicated appellant's guilt based on his violation of conditions U and W, two conditions that were included in the original terms and conditions of his community supervision, and that were not added in a later modification where he had no

opportunity to object. Therefore, appellant had the opportunity to object to conditions U and W, did not do so, and he cannot now complain about the alleged vagueness of the conditions for the first time on appeal. *See Speth*, 6 S.W.3d at 534; *McNeal*, 2012 WL 1976450, at *1. We overrule appellant's second issue.

3. Identity

In his third issue, appellant contends the State presented no evidence at the contested adjudication hearing substantiating that appellant was, in fact, the same person that was originally placed on deferred adjudication probation.

To justify revocation of community supervision, the State's proof must show the appellant was the individual placed on community supervision. *See Cobb v. State*, 851 S.W.2d 871, 874 (Tex. Crim. App. 1993). However, if an appellant fails to raise identity as an issue in the trial court, he is precluded from raising the issue on appeal. *Riera v. State*, 662 S.W.2d 606, 607 (Tex. Crim. App. 1984); *Nash v. State*, No. 09–11–00159–CR, 2011 WL 3206908, at *1 (Tex. App.—Beaumont 2011, no pet.) (mem. op., not designated for publication). Nothing in this record shows appellant ever suggested to the trial court that he was not the person placed on community supervision in these cases. Hence, he is precluded from raising this issue for the first time on appeal. *See Riera*, 662 S.W.2d at 607.

We also note that, during the adjudication hearing, after affirming his name, appellant was informed of the cases upon which he was being adjudicated, and asked by the trial court, "Are you the same person that's on probation?" Appellant replied, "Yes, Judge." Although appellant argues that he "never admitted to having received a copy of the motion to adjudicate containing the basis for the allegations against him," the record shows that, shortly after he admitted that he was the same person that was on probation, appellant also admitted that he had received a copy of the State's motion to adjudicate. Thus, even if appellant had properly raised

the issue of his identity, the record shows he was the person who was placed on community supervision. *See Reynaga v. State*, 776 S.W.2d 777, 778 (Tex. App.—Corpus Christi 1989, no pet.) (evidence of identity sufficient where the defendant affirmed his name, that he was the defendant, and that he had been served with the revocation motion); *Henderson v. State*, Nos. 05–98–02151–CR, 05–98–02165–CR, 2000 WL 694768, at *2 (Tex. App.—Dallas May 31, 2000, no pet.) (not designated for publication) (appellant affirmed his name and, though vocally protesting dissatisfaction with counsel, never suggested he was not the person repeatedly referred to during testimony). We overrule appellant's third issue.

4. The Motion for New Trial

In his fourth issue, appellant argues the trial court erred by failing to conduct a hearing on his motion for new trial. More specifically, he complains that the affidavit accompanying his September 2, 2016 motion for new trial "showed grounds for relief and demonstrated facts outside the court record."[5]

In his September 2, 2016 motion for new trial, appellant stated that he had requested a hearing with the court coordinator via email. Appellant attached an affidavit to the motion for new trial in which he alleged "new evidence has been discovered that would mitigate punishment." In that affidavit, appellant asserted "new evidence" regarding conditions H, L, P, and S—upon which the trial court did not make findings at the adjudication hearing—and conditions U and W—the conditions upon which he was adjudicated. The motion alleged in part as follows:

[5] Appellant also filed motions for new trial on August 5, 2016 in each case and an additional motion for new trial on August 25, 2016 in 05–16–01007–CR. None of these motions was supported by an affidavit and the trial court did not rule on them. In addition, the clerk's records in appeals 05–16–01001–CR, 05–16–01002–CR, 05–16–01003–CR, and 05–16–01005–CR do not show that the September 2, 2016 motion was filed in those cases. This may have been due to the fact that the caption of the September 2, 2016 motion for new trial includes incorrect cause numbers. In any event, the State acknowledges this is a clerical error subject to correction in these consolidated cases. *See, e.g., Gonzales v. State*, 421 S.W.3d 674, 674 (Tex. Crim. App. 2014) (pro se defendant's omission in notice of appeal of three of four cause numbers in consolidated plea was clerical error subject to correction); *Few v. State*, 230 S.W.3d 184, 189 (Tex. Crim. App. 2007) (the rules related to perfection of appeal "retain the requirement of notice of appeal," but an unquestioned notice of appeal was sufficient to appeal the defendant's conviction although the defendant filed it under the original cause number, not the re-indicted cause number).

> c. Condition U (Attendance of BIPP class): I was given 3 unexcused absences to the BIPP program. Furthermore[,] I did attend the class 10/22/2015, 4/21/2016, 4/28/2016, 5/5/2016 on Thursdays instead of Monday. I did not miss the weeks indicated in the motion to revoke.
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> d. Condition W: I was not told completely about the parameters of where I can and cannot go while on the GPS device. I also I [sic] couldn't comply with the GPS conditions because my GPS device was always malfunctioning. And this was an issue that I made known to the probation staff.

The motion did not include an order for the trial court to grant or overrule the motion for new trial. On October 10, 2016, appellant filed a motion requesting a hearing on the motion for new trial on or before October 18, 2016. The motion requesting a hearing likewise did not contain an order for the trial court to indicate whether it granted or denied the motion, and the record does not show the trial court ruled on the motion. The record also does not reflect that the trial court ruled on the motion for new trial or held a hearing on it; the motion was overruled by operation of law.

When a motion for new trial is overruled by operation of law, the trial court's failure to conduct a hearing, without more, is simply a "failure to rule" on the request for a hearing. *Oestrick v. State*, 939 S.W.2d 232, 235 (Tex. App.—Austin 1997, pet. ref'd). If a trial court fails to rule on a motion for new trial or a motion requesting a hearing, the appellant must object to the lack of a ruling to preserve a complaint on appeal that the trial court erred in denying his request for a hearing on a motion for new trial. *See id*.; *Perez v. State*, No. 10–11–00253–CR, 2013 WL 3770953, at *5 (Tex. App.—Waco July 18, 2013) (mem. op., not designated for publication), *aff'd*, 429 S.W.3d 639 (Tex. Crim. App. 2014).

In this case, the record shows appellant did not obtain a ruling on his motion for new trial, and that it was overruled by operation of law. The record does not show that the trial court explicitly ruled on appellant's request for a hearing—no order was included in the motion—and appellant does not point to anything in the record indicating that the trial court implicitly ruled on

his request. *See Rey v. State*, 897 S.W.2d 333, 336 (Tex. Crim. App. 1995) (court's ruling can be impliedly rather than explicitly made). Moreover, the record does not show any objection by appellant to the trial court's failure to rule. As a result, he failed to preserve this complaint for appellate review. *See Oestrick*, 939 S.W.2d at 235; *Perez*, 2013 WL 3770953, at *5; *see also Everitt v. State*, No. 01–15–01023–CR, 2017 WL 3389638, at *9 (Tex. App.—Houston [1st Dist.] August 8, 2017, no. pet.) (mem. op., not designated for publication).

Additionally, even if appellant had preserved this complaint, the trial court did not abuse its discretion because appellant admitted he violated condition W of his community supervision. At the adjudication hearing, appellant admitted he violated his community supervision by leaving his house after the nine o'clock curfew specified in his GPS monitoring contract on April 19, 2016, and that he went to a car lot located within his GPS exclusion zone on June 11, 2016—although he denied knowing the lot was located in the zone or that he had received prior warnings. A finding of even a single violation of the conditions of community supervision is sufficient to support revocation of community supervision and adjudication of guilt. *See Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. [Panel Op.] 1980); *Jones v. State*, 571 S.W.2d 191, 193–94 (Tex. Crim. App. [Panel Op.] 1978); *Anderson v. State*, Nos. 05–16–01322–CR, 05–16–01323–CR, 05–16–01333–CR, 2017 WL 4250207, at *2 (Tex. App.—Dallas Sept. 26, 2017, no pet.) (mem. op. not designated for publication). Appellant's affidavit does not dispute his admission that he violated condition W of the terms of community supervision on April 19, 2016, by breaking the curfew under his GPS monitoring contract. Thus, appellant's motion for new trial did not raise matters not determinable from the record, upon which appellant could have been entitled to relief, and the trial court did not abuse its discretion by not conducting a hearing on the motion for new trial. *See Wallace v. State*, 106 S.W.3d 103, 108 (Tex. Crim. App. 2003) (defendant entitled to hearing on motion for new trial if the motion and

accompanying affidavit "rais[e] matters not determinable from the record, upon which the accused could be entitled to relief"); *Balderas v. State*, No. 05–14–01081–CR, 2015 WL 3814354, at *4 (Tex. App.—Dallas Oct. 14, 2015, pet. ref'd) (mem. op., not designated for publication) (trial court did not abuse its discretion by not conducting hearing on appellant's motion for new trial where appellant testified at hearing on motion to revoke and admitted violating conditions of his community supervision). We overrule appellant's fourth issue.

5. Sufficiency of the Evidence

In a fifth issue not included in the table of contents, appellant contends the trial court abused its discretion in adjudicating guilt by finding he violated condition W because it was impossible for appellant to have violated "the GPS condition" since there was a 180-day time limit on this requirement. We construe this as a challenge to the sufficiency of the evidence.

We review an order revoking probation and adjudicating guilt for an abuse of discretion. *Powe v. State*, 436 S.W.3d 91, 93 (Tex. App.—Fort Worth 2014, pet. ref'd). In the revocation hearing, the State must prove by a preponderance of the evidence that the defendant violated at least one term of his community supervision. *Id*. Appellant does not challenge the sufficiency of the evidence supporting the trial court's revocation of community supervision and adjudication of guilt based on condition U—the condition that appellant must participate in the BIPP domestic violence treatment program. The trial court's finding that appellant violated condition U is sufficient to support the adjudication of guilt. *See Moore*, 605 S.W.2d at 926. We overrule appellant's fifth issue.

6. Modification of Judgments

In a cross-issue, the State asks us to modify the judgments in 05–16–01001–CR, 05–16–01002–CR, 05–16–01003–CR, and 05–16–01004–CR to include affirmative family violence findings, and a deadly weapon finding in 01004–CR. Under article 42.013 of the Texas Code of

Criminal Procedure, if a trial court determines that an offense under Title 5 of the Texas Penal Code—which includes aggravated kidnapping and aggravated assault—involved family violence, the trial court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of the case. TEX. CODE CRIM. PROC. ANN. art. 42.013. The trial court is statutorily obligated to enter an affirmative finding of family violence in the judgment if, during the guilt phase, it determines the offense involved family violence as defined by section 71.004(1) of the family code. *Butler v. State*, 189 S.W.3d 299, 302 (Tex. Crim. App. 2006). Section 71.004 defines "family violence" in part as follows:

> [A]n act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault[.]

TEX. FAM. CODE ANN. § 71.004(1). The court has no discretion in the matter, nor does the prosecutor have the discretion to seek such a finding. *Suiters v. State*, No. 07–13–00352–CR, 2014 WL 4459135, at *1 (Tex. App.—Amarillo Sept. 10, 2014, no pet.) (mem. op., not designated for publication). If the State charges an accused with a crime within the scope of section 71.004 and the evidence supports a verdict that the crime was committed, the statute requires the trial court to enter the finding. *See id*.; *see also Daraghmeh v. State*, No. 05–13–01127–CR, 2014 WL 7269924, at *5 (Tex. App.—Dallas Dec. 22, 2014, no pet.) (mem. op., not designated for publication). Spouses and former spouses are "family" for the purposes of section 71.004. *See* TEX. FAM. CODE ANN. § 71.003. Biological children are also "family." *See id*. (defining "family" to include "individuals related by consanguinity"); TEX. GOV'T CODE ANN. § 573.022(a)(1) (providing that "[t]wo individuals are related to each other by consanguinity if one is a descendant of the other").

The State argues the trial court had the necessary evidence before it to enter an affirmative finding of family violence in causes 01001–CR, 01002–CR, 01003–CR, and 01004–

CR. We agree, in part. Appellant was indicted for aggravated kidnapping in 01001–CR, 01002–CR, and 01003–CR, and burglary of a habitation with the intent to commit aggravated assault in 01004–CR. Both are offenses under Title 5 of the penal code. *See* TEX. CODE CRIM. PROC. ANN. art. 42.013; *State v. Colyandro*, 233 S.W.3d 870, 891 (Tex. Crim. App. 2007) (Cochran, J., dissenting) (noting that aggravated kidnapping is a Title 5 offense); *Williams v. State*, No. 05–10–00696–CR, 2011 WL 3484807, at *2 (Tex. App.—Dallas Aug. 10, 2011, pet. ref'd) (not designated for publication) (family violence finding required under article 42.013 where indictment alleged appellant committed burglary, a Title 7 offense, by entering residence of his girlfriend without her consent and committed assault, a Title 5 offense).

The records show that appellant judicially confessed in each case that he "committed the offense with which I stand charged exactly as alleged in the indictment in this cause." Appellant entered plea agreements with the State in which he agreed to an affirmative finding of family violence. There is no copy of that plea agreement in the clerk's record in 01001–CR; the records in the other three cases contain a copy of the plea agreement. In 01001–CR, 01002–CR, and 01003–CR, the orders placing appellant on deferred adjudication include both of the affirmative findings; the judgments contain only the deadly weapon findings. In 01004–CR, neither the order placing appellant on deferred adjudication nor the judgment adjudicating guilt include either of the affirmative findings on those issues. At the plea hearing, the trial court orally pronounced findings "in each case" of family violence, yet the court did not make that oral pronouncement at the adjudication hearing.

The complainants in the three aggravated kidnapping cases are Jacob Coronado (01001–CR), Edith Trevino (01002–CR), and Alexis Coronado (01003–CR). These indictments alleged the intentional and knowing abduction of the complainants by appellant and the attempt and commission of an aggravating factor—aggravated assault. In 01004–CR, the indictment alleged

that appellant intentionally and knowingly entered a habitation without the effective consent of Edith Trevino, the owner, and committed and attempted to commit aggravated assault.

The indictments in 01001–CR, 01002–CR, 01003–CR, and 01004–CR do not allege any familial relationship between appellant and the complainants. Undisputed testimony at the adjudication hearing showed Edith Trevino is appellant's wife. She also testified that the victims in the nine cases included the couple's oldest son, their other son, and a daughter. Appellant admitted that he hit his son. However, those sons' names are not revealed, or even mentioned, in the adjudication hearing testimony. The State points to the arrest warrant affidavit in the clerk's records, which states that Jacob Coronado and Alexis Coronado are appellant's sons. Yet, the State cites no authority that would allow us to rely on an arrest warrant affidavit in a situation such as this, and our own research has found no such authority.[6]

What this means is that we have sufficient information in causes 01002–CR and 01004–CR, where appellant's familial status as Edith Trevino's husband is shown, to conclude the trial court was statutorily obligated to include affirmative family violence findings in those judgments. But we are unable to reach this conclusion regarding the other two causes, 01001–CR and 01003–CR, where the complainants are Jacob and Alexis Coronado, respectively. We thus decide in the State's favor on its cross-issue regarding causes 01002–CR and 01004–CR, and conclude the trial court was statutorily obligated to include affirmative family violence findings in those judgments, but we overrule it as to causes 01001–CR and 01003–CR. *See* TEX. CODE CRIM. PROC. ANN. art. 42.013; *Butler*, 189 S.W.3d at 302.

The State's cross-issue also argues that we should modify the judgment in 01004–CR to include an affirmative deadly weapon finding. *See* TEX. CODE CRIM. PROC. ANN. art. 42A.054(c)

[6] In *Thornton v. State*, No. 05–16–00565–CR, 2017 WL 1908629 (Tex. App.—Dallas May 9, 2017, pet. ref'd) (mem. op., not designated for publication), we modified the trial court's judgment adjudicating guilt to include an affirmative finding of family violence and an affirmative deadly weapon finding. We observed in a footnote that the arrest warrant affidavit stated appellant and the complainant were common law married and had been together for approximately a year, but the indictment in the case stated that appellant "has and has had a dating relationship with the said complainant and the said defendant was a member of the complainant's family and household." *Id*. at *5 n. 5.

(requiring court to enter a deadly weapon finding in its judgment on an affirmative finding that a deadly weapon was used or exhibited during the commission of a felony offense); *see also* TEX. CODE CRIM. PROC. ANN. art. 42A.054(d) (requiring court to enter finding that deadly weapon was a firearm in its judgment on an affirmative finding). Before modifying a judgment to include an omitted deadly weapon finding, however, we must determine whether the absence of a deadly weapon finding was a clerical error and not a conscious decision by the trial court. *See Guthrie-Nail v. State*, 506 S.W.3d 1, 5 (Tex. Crim. App. 2015); *Thornton*, 2017 WL 1908629, at *7–8.

Appellant was indicted for knowingly and intentionally entering a habitation without the effective consent of the owner, Trevino, with the intent to commit aggravated assault. The record shows appellant agreed to a deadly weapon finding in the plea agreement and that the trial court made an oral finding "in each case" during the plea hearing, although not at adjudication, that a deadly weapon was used or exhibited during the commission of the offense. But the indictment does not mention the use or exhibition of a deadly weapon, and the order placing appellant on deferred adjudication omits both affirmative findings, as does the judgment. Nor is the use or exhibition of a deadly weapon during the commission of the burglary offense established in the adjudication hearing testimony. The State once again calls our attention to the arrest warrant affidavit, which states that appellant hit Trevino in the face with a handgun after forcing his way into her new residence, but as we noted before, the State cites no authority that would allow us to rely on an arrest warrant affidavit in a situation such as this.

The Court of Criminal Appeals reminds us that an affirmative deadly weapon finding must be an "express" determination in order to be effective. *Guthrie–Nail*, 506 S.W.3d at 4. Less explicit language—such as words, in a verdict or judgment, referring to a portion of the charging instrument that includes a deadly weapon allegation—can also constitute an express

determination, *see id*., but the record here does not support this determination. Based on this record, therefore, we are unable to modify the judgment in 05–16–01004–CR to include an affirmative deadly weapon finding.

This Court has the power to modify a judgment to make the record speak the truth when we have the necessary information before us to do so. *See* TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 28 (Tex. Crim. App. 1993); *French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd). We conclude this Court has the necessary information before it to correct the judgments in 01002–CR and 01004–CR to include an affirmative finding of family violence, but not as to 01001–CR and 01003–CR, and that we are unable to modify the judgment in 01004–CR to add an affirmative deadly weapon finding. Accordingly, we modify the trial court's judgments adjudicating guilt in 01002–CR and 01004–CR to include an affirmative finding of family violence.

As modified, we affirm the trial court's judgments.

/Lana Myers/
LANA MYERS
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01001-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-00535-V.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant	On Appeal from the 283rd Judicial District Court, Dallas County, Texas
No. 05-16-01002-CR V.	Trial Court Cause No. F14-00536-V.
THE STATE OF TEXAS, Appellee	Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to include an affirmative finding of family violence. As **MODIFIED**, the trial court's judgment is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01003-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-00537-V.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01004-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-56962-T.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to include an affirmative family violence finding. As **MODIFIED**, the judgment is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant	On Appeal from the 283rd Judicial District Court, Dallas County, Texas
No. 05-16-01005-CR V.	Trial Court Cause No. F14-56967-T.
THE STATE OF TEXAS, Appellee	Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01006-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-56969-T.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01007-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-76064-T.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant	On Appeal from the 283rd Judicial District Court, Dallas County, Texas
No. 05-16-01008-CR V.	Trial Court Cause No. F14-76111-T.
THE STATE OF TEXAS, Appellee	Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

ROCKY CORONADO, Appellant

No. 05-16-01009-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 283rd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F14-76115-T.
Opinion delivered by Justice Myers. Justices Francis and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 18th day of December, 2017.