

AFFIRMED and Opinion Filed October 27, 2021



**In the
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-20-00802-CR

No. 05-20-00803-CR

KENDRICK ROSE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 204th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F16-39259-Q, F17-60335-Q**

MEMORANDUM OPINION

Before Justices Myers, Partida-Kipness, and Carlyle
Opinion by Justice Carlyle

Kendrick Rose appeals the trial court's judgments adjudicating his guilt for burglary of a building and theft. We affirm in this memorandum opinion. *See* TEX. R. APP. P. 47.4.

In September 2016, Mr. Rose entered a guilty plea on a charge of burglarizing a building. Consistent with the terms of his negotiated plea agreement, the trial court deferred adjudication, placed him on community supervision,¹ and fined him \$1,500.

¹ The initial term of community supervision was two years from September 20, 2016, but it was later extended by agreement through December 18, 2020.

In February 2018, Mr. Rose entered a guilty plea on a theft charge. Consistent with the terms of his negotiated plea agreement in that case, the trial court deferred adjudication, placed him on community supervision, and fined him \$1,000.

In April 2020, the State moved to revoke Mr. Rose's community supervision in both cases after police arrested him for methamphetamine possession. The State also alleged Mr. Rose violated the terms of his supervision by failing to pay certain monetary obligations imposed under the supervision orders. Mr. Rose entered a "not true" plea on the drug-possession allegation and "true" pleas on the non-payment allegations. After receiving evidence, the trial court found that all of the alleged violations were true, revoked Mr. Rose's community supervision, adjudicated his guilt in each case, and sentenced him to concurrent terms of twelve months' confinement.

Mr. Rose contends that revoking his community supervision was improper because the evidence did not show he either knowingly possessed methamphetamine or willfully failed to pay his obligations under the supervision orders. We review a decision to revoke community supervision for abuse of discretion, determining whether, when viewed in the light most favorable to the trial court's ruling, a preponderance of the evidence supports at least one of the State's allegations that the defendant violated a condition of his supervision. *See Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012); *Garrett v. State*, 619 S.W.2d 172, 174 (Tex. Crim. App. 1981).

With respect to the possession allegation, Mr. Rose contends there is no proof he knowingly possessed the methamphetamine police found inside the car he was driving. He suggests the drugs might have belonged to someone else, noting that he borrowed the car and used it to give a “strange woman” a ride shortly before encountering the officers. But the evidence establishes that Mr. Rose was the driver and sole occupant of the car at the time of his arrest. “[W]hen a defendant is the driver and sole occupant of a vehicle, ‘it may be inferred that he has knowledge of what is in that vehicle,’ and ‘he may be deemed to have possessed any contraband found in it.’” *See Moon v. State*, No. 05-20-00102-CR, 2021 WL 1169393, at *2 (Tex. App.—Dallas Mar. 29, 2021, no pet.) (mem. op., not designated for publication) (quoting *Newkirk v. State*, No. 05-12-00202-CR, 2013 WL 222278, at *4 (Tex. App.—Dallas Jan. 22, 2013, no pet.)). Thus, the trial court could infer he knowingly possessed the drugs.

Moreover, a police officer testified that Mr. Rose tried to conceal the methamphetamine by moving it from “the cup holder area,” where the officer initially observed it, to an area “in front of the gear shift.” This furtive conduct suggests a consciousness of guilt, which further links Mr. Rose to the methamphetamine found within his reach. *See id.* Viewed in the light most favorable to the trial court’s ruling, the evidence sufficiently supports a conclusion that Mr. Rose knowingly possessed the methamphetamine. Thus, the trial court did not abuse

its discretion by revoking Mr. Rose's community supervision.² *See Leonard*, 385 S.W.3d at 576.

We affirm the trial court's judgments.

/Cory L. Carlyle/

CORY L. CARLYLE
JUSTICE

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TEX. R. APP. P. 47.2(b)

² Because we conclude the evidence sufficiently supports revocation based on the drug offense, we need not address Mr. Rose's arguments concerning his failure to pay amounts required under the terms of his supervision. *See* TEX. R. APP. P. 47.1.



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JUDGMENT

KENDRICK ROSE, Appellant

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Opinion delivered by Justice Carlyle.
Justices Myers and Partida-Kipness
participating.

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

Judgment entered this 27th day of October, 2021.



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