

Opinion issued April 28, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-21-00663-CR

NO. 01-21-00664-CR

NO. 01-21-00665-CR

EX PARTE DONTE JAYSON WALKER, Appellant

**On Appeal from the 230th District Court
Harris County, Texas
Trial Court Case Nos. 1740467, 1740469 & 1740470**

MEMORANDUM OPINION

Appellant, Donte Jayson Walker, challenges the trial court’s orders in three separate trial court cases¹ denying his pretrial applications for writ of habeas corpus.² In his sole issue, appellant contends that the trial court erred in denying him habeas relief.

We affirm.

Background

Appellant is charged with the felony offenses of compelling prostitution by a minor,³ assault of a family member,⁴ and trafficking of a child.⁵

Compelling Prostitution by a Minor

Appellant was arrested in December 2020 for the felony offense of compelling prostitution by a minor. A Harris County Grand Jury issued a true bill of indictment, alleging that appellant, on or about December 14, 2020, “unlawfully[] and knowingly cause[d] by any means, J.B.,” the complainant, “a person younger than eighteen years of age, to commit prostitution.”⁶

¹ Appellate cause no. 01-21-00663-CR, trial court cause no. 1740467; appellate cause no. 01-21-00664-CR, trial court cause no. 1740469; appellate cause no. 01-21-00665-CR, trial court cause no. 1740470.

² See TEX. R. APP. P. 31.

³ See TEX. PENAL CODE ANN. § 43.05(a)(2), (b).

⁴ See *id.* § 22.01(a)(1), (b)(2)(B).

⁵ See *id.* § 20A.02(a)(7), (b).

⁶ At the hearing on the State’s Motions to Revoke Defendant’s Bonds, the trial court took judicial notice of the indictment in appellant’s compelling-prostitution-by-a-minor case. The trial court also took judicial notice

The trial court set appellant's bail at \$40,000. Appellant posted bond and was released from custody. The trial court placed appellant on pretrial community supervision and imposed conditions⁷ on appellant's release on bond, including:

- Appellant “shall personally appear in court, on time, every time th[e] case is set on the [trial] [c]ourt[']s docket”;
- Appellant “shall commit no crime and shall not engage in any conduct that could result in his[] arrest”;
- Appellant “shall have no contact with” the complainant or members of the complainant's household;
- Appellant “shall refrain from going to or within 300 feet of” the complainant's home and school;
- Appellant “must not use, possess, or consume marijuana or any controlled substance or dangerous drug unless obtained pursuant to a lawful prescription for [appellant] issued by a medical doctor. [Appellant] will provide a copy of all such prescriptions to his supervising officer in advance”;
- Appellant “must not use, possess, or consume alcohol”;
- Appellant shall “submit to . . . electronic monitoring” and “observe an initial curfew”;
- Appellant shall not have “firearms, ammunition or any other weapons”; and
- Appellant shall not have “contact [with] minor children under [seventeen years old],” shall not “go within 1000 f[et] of where

of the indictment at the hearing on appellant's pretrial applications for writ of habeas corpus.

⁷ At the hearing on the State's Motions to Revoke Defendant's Bonds, the trial court admitted into evidence a copy of the trial court's Order for Pretrial Supervision and Bond Conditions.

children gather,” and shall not “supervise or participate in any activities [with] minors under [seventeen] years of age.”

The trial court also restricted appellant’s internet usage.

Appellant signed the trial court’s Order for Pretrial Supervision and Bond Conditions, which informed appellant that the “[f]ailure to abide by the[] bond conditions [could] result in [appellant’s] bond being forfeited or revoked and [appellant being] arrested and confined” pending trial. By signing the Order for Pretrial Supervision and Bond Conditions, appellant acknowledged that he “underst[ood] that the [trial] court [was] ordering [his] compliance with the [bond] conditions . . . as a requirement of [his] . . . release on bond.” Appellant “agree[d] to the[] [bond] conditions” and represented that he “underst[ood] that [his] failure to comply with the[] [bond] conditions [could] result in the forfeiture or revocation of [his] bond and confinement.”

Later, the State filed a Motion to Revoke Defendant’s Bond, requesting that the trial court revoke appellant’s bond because on July 12, 2021, while “on bond [for the felony offense of] . . . [c]ompelling [p]rostitution” by a minor, appellant “was arrested for and charged with carrying a handgun in a motor vehicle.”⁸

⁸ See TEX. PENAL CODE ANN. § 46.02.

Assault of a Family Member

Appellant was arrested in December 2020 for the felony offense of assault of a family member. A Harris County Grand Jury issued a true bill of indictment, alleging that appellant, on or about December 14, 2020, “unlawfully, intentionally and knowingly cause[d] bodily injury to [the complainant], a member of [appellant’s] household, by impeding the normal breathing and circulation of the blood of the [c]omplainant by applying pressure to the [c]omplainant’s throat and neck.”⁹

The trial court set appellant’s bail at \$15,000. Appellant posted bond and was released from custody. The trial court placed appellant on pretrial community supervision and imposed conditions¹⁰ on appellant’s release on bond, including:

- Appellant “shall personally appear in court, on time, every time th[e] case is set on the [trial] [c]ourt[’]s docket”;
- Appellant “shall commit no crime and shall not engage in any conduct that could result in his[] arrest”;
- Appellant “shall have no contact with” the complainant or members of the complainant’s household;

⁹ At the hearing on the State’s Motions to Revoke Defendant’s Bonds, the trial court took judicial notice of the indictment in appellant’s assault-of-a-family-member case. The trial court also took judicial notice of the indictment at the hearing on appellant’s pretrial applications for writ of habeas corpus.

¹⁰ At the hearing on the State’s Motions to Revoke Defendant’s Bonds, the trial court admitted into evidence a copy of the trial court’s Order for Pretrial Supervision and Bond Conditions.

- Appellant “shall refrain from going to or within 300 feet of” the complainant’s home and school;
- Appellant “must not use, possess, or consume marijuana or any controlled substance or dangerous drug unless obtained pursuant to a lawful prescription for [appellant] issued by a medical doctor. [Appellant] will provide a copy of all such prescriptions to his supervising officer in advance”;
- Appellant “must not use, possess, or consume alcohol”;
- Appellant shall “submit to . . . electronic monitoring” and “observe an initial curfew”;
- Appellant shall not have “firearms, ammunition or any other weapons”; and
- Appellant shall not have “contact [with] minor children under [seventeen years old],” shall not “go within 1000 f[et] of where children gather,” and shall not “supervise or participate in any activities [with] minors under [seventeen] years of age.”

The trial court also restricted appellant’s internet usage.

Appellant signed the trial court’s Order for Pretrial Supervision and Bond Conditions, which informed appellant that the “[f]ailure to abide by the[] bond conditions [could] result in [appellant’s] bond being forfeited or revoked and [appellant being] arrested and confined” pending trial. By signing the Order for Pretrial Supervision and Bond Conditions, appellant acknowledged that he “underst[ood] that the [trial] court [was] ordering [his] compliance with the [bond] conditions . . . as a requirement of [his] . . . release on bond.” Appellant “agree[d] to the[] [bond] conditions” and represented that he “underst[ood] that [his] failure to

comply with the[] [bond] conditions [could] result in the forfeiture or revocation of [his] bond and confinement.”

Later, the State filed a Motion to Revoke Defendant’s Bond, requesting that the trial court revoke appellant’s bond because on July 12, 2021, while “on bond for . . . [the felony offense of] [a]ssault [of a] [f]amily [m]ember,” appellant “was arrested for and charged with carrying a handgun in a motor vehicle.”¹¹

Trafficking of a Child

Appellant was arrested in December 2020 for the felony offense of trafficking of a child. A Harris County Grand Jury issued a true bill of indictment, alleging that appellant, on or about December 16, 2020, “unlawfully, knowingly transport[ed] and harbor[ed]” the complainant, “a person younger than [eighteen] years of age,” and “cause[d] the [c]omplainant to become the victim of conduct prohibited by [s]ection 22.011 of the Texas Penal Code.”¹²

¹¹ See TEX. PENAL CODE ANN. § 46.02.

¹² At the hearing on the State’s Motions to Revoke Defendant’s Bonds, the trial court took judicial notice of the indictment in appellant’s trafficking-of-a-child case. The trial court also took judicial notice of the indictment at the hearing on appellant’s pretrial applications for writ of habeas corpus.

The trial court set appellant's bail at \$20,000. Appellant posted bond and was released from custody. The trial court placed appellant on pretrial community supervision and imposed conditions¹³ on appellant's release on bond, including:

- Appellant "shall personally appear in court, on time, every time th[e] case is set on the [trial] [c]ourt[']s docket";
- Appellant "shall commit no crime and shall not engage in any conduct that could result in his[] arrest";
- Appellant "shall have no contact with" the complainant;
- Appellant "is required to submit to . . . drug and alcohol testing";
- Appellant "must not use, possess, or consume marijuana or any controlled substance or dangerous drug unless obtained pursuant to a lawful prescription for [appellant] issued by a medical doctor. [Appellant] will provide a copy of all such prescriptions to his supervising officer in advance";
- Appellant "must not use or possess a firearm";
- Appellant shall not have "firearms" or "weapons";
- Appellant "must not use, possess, or consume alcohol"; and
- Appellant shall "submit to . . . electronic monitoring."

The trial court also restricted appellant's internet usage.

Appellant signed the trial court's Order for Pretrial Supervision and Bond Conditions, which informed appellant that the "[f]ailure to abide by the[] bond

¹³ At the hearing on the State's Motions to Revoke Defendant's Bonds, the trial court admitted into evidence a copy of the trial court's Order for Pretrial Supervision and Bond Conditions.

conditions [could] result in [appellant’s] bond being forfeited or revoked and [appellant being] arrested and confined” pending trial. By signing the Order for Pretrial Supervision and Bond Conditions, appellant acknowledged that he “underst[ood] that the [trial] court [was] ordering [his] compliance with the [bond] conditions . . . as a requirement of [his] . . . release on bond.” Appellant “agree[d] to the[] [bond] conditions” and represented that he “underst[ood] that [his] failure to comply with the[] [bond] conditions [could] result in the forfeiture or revocation of [his] bond and confinement.”

Later, the State filed a Motion to Revoke Defendant’s Bond, requesting that the trial court revoke appellant’s bond because on July 12, 2021, while “on bond for [the felony offense of] [t]rafficking of a [c]hild,” appellant “was arrested for and charged with carrying a handgun in a motor vehicle.”¹⁴

Bond Revocation Hearing

The trial court held a hearing on the State’s Motions to Revoke Defendant’s Bonds filed in appellant’s compelling-prostitution-by-a-minor, assault-of-a-family member, and trafficking-of-a-child cases. At the hearing, Houston Police Department (“HPD”) Officer C. Meade testified that on July 12, 2021, while on patrol, he made a traffic stop. Meade saw a white car cut through the parking lot of a gas station at the intersection of Tidwell Road and U.S. Highway 59. According

¹⁴ See TEX. PENAL CODE ANN. § 46.02.

to Meade, the area of Houston, Texas where this occurred was “known for [having] high drug and prostitution” rates. Meade sought to “conduct a license plate check” for the white car, but he was unable to view the rear license plate number on the car because a “mounting bracket” designed to hold the “rear license plate light” was “hanging down and blocking the first digit of the license plate [number],” making the rear license plate number “unreadable.” Meade followed the white car in his patrol car, and initiated a traffic stop because of the “defective equipment” on the white car that was “hanging down [and] obscuring” the rear license plate number. After initiating the traffic stop, Meade approached the white car on the driver’s side to obtain the license plate number.

As he approached the driver’s side of the white car, Officer Meade saw appellant in the driver’s seat. There was a “young . . . female[]” in the front-passenger seat of the white car and another “young . . . female[]” in the backseat of the car. Meade spoke to appellant and told him about “the infraction” that he had witnessed. Appellant gave Meade his driver’s license and “proof of insurance” for the white car. Meade “r[a]n” appellant’s driver’s license number and determined that appellant “was a documented gang member [in] the [HPD] gang database” and appellant was “out on bond for [the felony offenses of] compelling prostitution [by] a minor and assault family violence impeding breath.” Meade then reapproached appellant, asked him to step out of the white car, and conducted a

“roadside interview.” Meade was concerned because there were “two young females”¹⁵ in the car and “the area [of Houston] that [they] were in” had a high rate of prostitution. While Meade asked appellant questions, appellant was not detained, not under arrest, and was not handcuffed. Appellant told Meade that there were no firearms, no narcotics, and no “large amounts of U.S. currency” inside the car. Appellant “seemed a little unsettled by” Meade’s questioning. Appellant did not consent to a search of his car.

After speaking with appellant, Officer Meade requested that HPD Officer S. Gillham and “his police narcotic[s] canine partner” come to the scene of the traffic stop. Gillham arrived within ten minutes and “deployed his [canine] partner for a free-air sniff around” the white car. Appellant was not in handcuffs as this occurred. While conducting a “free-air sniff,” the canine partner “alerted to the center console [inside appellant’s car] and [the] lower floorboard behind the driver’s seat.”

According to Officer Meade, the canine partner was trained to alert to certain narcotics odors. Because there was “a positive alert from the canine [partner],” a “probable cause search” of the white car was then conducted by law enforcement officers. Appellant was handcuffed and placed in the patrol car while law

¹⁵ According to Officer Meade, the “young females” had “backpacks at their feet” and were wearing “blue scrubs.” Meade “figured [they were] teenagers based on their appearance.” The female in the front-passenger seat told another law enforcement officer that was present at the scene that she was appellant’s girlfriend.

enforcement officers searched his car. During the search, law enforcement officers found a “loaded semiautomatic handgun” in a backpack in the car that belonged to the front-seat passenger. The firearm had “an extended 30-round magazine sticking out of it.”¹⁶ Law enforcement officers also found “another magazine” in the “driver’s side door pocket” that was for the firearm found in appellant’s car.¹⁷ And behind the driver’s seat in a shoebox, which contained an “insurance card belonging to [appellant] identifying th[e] specific [car] in [appellant’s] possession,” officers found “four loose rounds of ammunition and the holster” for the firearm. The “four loose rounds of ammunition” “fit” the firearm that was found in appellant’s car, and the shoebox was within the reach of the driver of the car, i.e., appellant.

According to Officer Meade, none of the law enforcement officers at the scene of the traffic stop questioned appellant about the firearm that was recovered. But appellant voluntarily told the officers that the firearm was “new” and it was “not stolen.” Appellant told Meade that his uncle had bought the firearm for him because appellant “was not allowed” to do so. Meade testified that the firearm found in appellant’s car was capable of firing.

¹⁶ According to Officer Meade, there were “rounds of ammunition inside th[e] [extended] magazine.” The magazine “fit the handgun that was located” in appellant’s car and was “inside” the firearm.

¹⁷ Officer Meade explained that the magazine found in the “driver’s side door pocket” was “the stock magazine” that was “issued for th[e] weapon [by] the manufacturer.” “It was an exact match” for the firearm found in appellant’s car. It did not contain ammunition when Meade found it.

Officer Gillham testified that he is a “narcotics canine handler” and he assists in the searching of cars with his canine partner. His canine partner is trained to detect the odor of “[c]ocaine, heroin, MDMA[,] and methamphetamine.” When the canine partner detects an odor, he sits and stares.

Officer Gillham explained that he was dispatched to a traffic stop on July 12, 2021, where Officer Meade was present. Upon arriving at the scene, Gillham spoke to appellant and told him that Gillham’s canine partner would be “conducting a[] free[-]air sniff around” appellant’s car. Gillham’s canine partner then conducted a “sniff test” on appellant’s car. Gillham brought his canine partner to “the front driver’s side” of the car, and the canine partner began to search along the front driver’s side door. The canine partner “lifted his nose up,” following an odor, and “jumped into” the car because the driver’s side front window was down, and he was “trying to get as close to the odor as possible.” The canine partner alerted to “[t]he center console and . . . the rear floor area of” appellant’s car.

According to Officer Gillham, when his canine partner “detects the odor of one of th[e] substances” he is trained to identify, he alerts. Based on the canine partner’s alert, law enforcement officers searched appellant’s car, but no narcotics were found. Gillham explained that this could have happened because narcotics had been in the car previously, and the canine partner alerted to the remaining odor in

the car. In other words, the odor of the substances may still have been present in the car even if the substances were no longer in the car.

The trial court admitted into evidence copies of its Orders for Pretrial Supervision and Bond Conditions related to appellant's compelling-prostitution-by-a-minor, assault-of-a-family-member, and trafficking-of-a-child cases. Those orders imposed conditions on appellant's release on bond, including that appellant shall not have "firearms, ammunition or any other weapons" and appellant "must not use or possess a firearm." Appellant signed the trial court's Orders for Pretrial Supervision and Bond Conditions, which informed appellant that the "[f]ailure to abide by the[] bond conditions [could] result in [appellant's] bond[s] being forfeited or revoked and [appellant being] arrested and confined" pending trial. By signing the Orders for Pretrial Supervision and Bond Conditions, appellant acknowledged that he "underst[ood] that the [trial] court [was] ordering [his] compliance with the [bond] conditions . . . as a requirement of [his] . . . release on bond." Appellant "agree[d] to the[] [bond] conditions" and represented that he "underst[ood] that [his] failure to comply with the[] [bond] conditions [could] result in the forfeiture or revocation of [his] bond[s] and confinement."

The trial court also admitted into evidence a photograph of the "extended magazine," which "fit the handgun" found in appellant's car and was "inside" the

firearm; a photograph of the “stock magazine,” which was “issued” by the manufacturer for the firearm found in appellant’s car; a photograph of the “four loose rounds of ammunition,” which were found in the shoebox behind the driver’s seat in appellant’s car and which “fit” the firearm found in appellant’s car; and a photograph of the firearm found in appellant’s car.

At the conclusion of the hearing, the trial court found that the State “ha[d] shown by a preponderance of the evidence that [appellant] was ordered not to possess firearms, ammunition[,] or other weapons while [released] on bond as a condition of his bond[s],” “[t]he purpose of th[e] [bond] condition[s] was for the protection of any alleged [complainant] in the cases in which [appellant was] charged and for the protection of the community as a whole,” and the State “ha[d] . . . shown by a preponderance of the evidence that [appellant] was in possession of a firearm and ammunition in violation of the bond conditions.” The trial court ordered appellant’s bonds revoked in each of his three cases and that appellant be “detained [with] no bond[s] pursuant to Texas Constitution, Article [I], [s]ection 11b.”¹⁸

The trial court also signed an order granting the State’s Motion to Revoke Defendant’s Bond in each of appellant’s cases and ordering that appellant be

¹⁸ See TEX. CONST. art. I, § 11b (“Violation of condition of release pending trial; denial of bail”).

detained with “no bond[s] pursuant to T[exas] Constitution[,] Article I, [s]ection 11b.”¹⁹ The trial court found that the State had “shown by a preponderance of the evidence” that appellant “was ordered to not possess firearms, ammunition, or other weapons while on bond as a condition of his bond[s],” “[t]he purpose of th[e] condition[s] was for the protection of any alleged [complainant] and the community as a whole,” and appellant “was in possession of a firearm and ammunition in violation of his bond conditions.” The trial court ordered appellant “remanded to the custody of the sheriff” and set appellant’s bail at “no bail” for each of the felony offenses with which appellant is charged.

The trial court then issued the following findings of fact and conclusions of law:

Procedural History

1. On December 15, 2020, [appellant] was charged with [the felony offenses of] [a]ssault [of a] [f]amily [m]ember by [i]mpeding [b]reathing in [trial court] [c]ause [number] 1702284, [c]ompelling [p]rostitution [by] a [m]inor in [trial court] [c]ause [number] 1702283, and [t]rafficking of a [c]hild in [trial court] [c]ause [number] 1702542.
2. On December 17, 2020, . . . the [trial] [c]ourt entered bond conditions and ordered that [appellant], as a condition of his release from custody, [was] prohibited from, *inter alia*, possessing firearms, ammunition, and any other weapons. [Appellant] was admonished of these bond conditions and signed said bond conditions acknowledging that he understood the condition[s] and that the failure to comply with the[] conditions may result in the forfeiture or revocations of his bonds and confinement. . . .

¹⁹ *See id.*

3. On December 23, 2020, [appellant] was released from custody after posting surety bonds in the following amounts: \$15,000 in [trial court] [c]ause [number] 1702284, \$40,000 in [trial court] [c]ause [number] 1702283, and \$20,000 in [trial court] [c]ause [number] 1702542.

4. On July 12, 2021, [appellant] was arrested for and charged with [c]arrying a [h]andgun in a [m]otor [v]ehicle in [trial court] [c]ause [number] 2367106, which is currently pending in Harris County Criminal Court of Law Number 2.

5. On July 14, 2021, the State filed . . . Motion[s] to Revoke . . . Defendant's Bond[s] and alleged that [appellant] was arrested for carrying a handgun in a motor vehicle.

6. On July 22, 2021, counsel for the State and [appellant] approached the [trial] [c]ourt and the State requested a hearing on the Motion[s] to Revoke . . . Defendant's Bond[s]. Such hearing was scheduled for July 27, 2021.

7. On July 27, 2021, th[e] [trial] [c]ourt held a hearing on the State's Motion[s] to Revoke [Defendant's] Bond[s] and granted the State's motion[s].

Findings of Fact

8. The [trial] [c]ourt finds Officers . . . Meade and . . . Gillham to be credible.

9. On July 12, 2021, Officer Meade conducted a traffic stop of a white Buick sedan for having a rear license plate that was obstructed by the license plate light and was partially unreadable.

10. The traffic stop was made in an area of Houston . . . that Officer Meade, based on his training and experience, believe[d] to have a high rate of illegal drugs and prostitution.

11. [Appellant] was operating the vehicle that Officer Meade stopped. The vehicle was also occupied by two passengers who appeared young to Officer Meade.

12. Officer Meade requested [appellant's] [d]river [l]icense and [p]roof of [f]inancial [r]esponsibility. [Appellant] provided them to Officer Meade.

13. Officer Meade conducted a search of [appellant] in his patrol car's data terminal, which showed that [appellant] was on bond for compelling prostitution [by] a minor and was documented as a member of a criminal street gang.

14. Officer Meade instructed [appellant] to exit the vehicle and [appellant] complied. Officer Meade believed the circumstances to be suspicious based on the presence of the passengers who appeared to be teenage females, possibly school aged, coupled with [appellant] being on bond for compelling prostitution [by] a minor and being in an area known for prostitution.

15. While Officer Meade was conducting the traffic stop and investigating whether [appellant] was engaged in human trafficking of his two passenger[s], he requested for a canine unit to come to the scene. Approximately 10 minutes after the request and 20 minutes after the traffic stop was initiated, Officer . . . Gillham arrived with his canine [partner,] Yukon.

16. Yukon was trained and certified to detect the odor of cocaine, heroin, MDMA, and methamphetamine.

17. While Officer Meade was still conducting his investigation of possible human trafficking, Yukon performed a free[-]air sniff of [appellant's] vehicle and alerted to the center console and the rear floorboard of the vehicle.

18. After receiving the alert from Yukon, Officer Meade conducted a search of the vehicle.

19. Officer Meade located a loaded handgun inside of a backpack belonging to the female that was sitting in [the] front passenger seat.

20. Officer Meade located a magazine for the handgun in the driver's side door pocket. The magazine was designed to fit the handgun that was located inside of [appellant's] vehicle.

21. Officer Meade found ammunition and a holster for the handgun inside of a shoebox that was behind the driver's seat. Officer Meade found an insurance card with [appellant's] name on it inside of the shoebox where the ammunition and holster were found.

22. The handgun was operable and capable of firing.

23. After being arrested for [the offense of] [c]arrying a [h]andgun in a [v]ehicle, [appellant] made an admission that the handgun was his and that it was given to him.

24. [Appellant] was in possession of a handgun and ammunition.

Conclusions of Law

25. A person who displays a license plate on a vehicle that has an illuminating device that interferes with the readability of the letters or numbers on the license plate commits a Class C misdemeanor. TEX. TRANSP. CODE [ANN.] § 504.945(6).

26. [Appellant] violated [s]ection 504.945(6) when he operated a vehicle with a broken rear license plate light that obstructed a letter or number of the license plate.

27. [Appellant] was properly detained while Officer Meade conducted his investigation into [appellant's] violation of [s]ection 504.945 of the [Texas] Transportation Code.

28. Additionally, because [appellant] was on bond for trafficking of a minor and compelling prostitution [by] a minor, was in an area known for prostitution, and had two female passengers in his vehicle who could have been minors, Officer Meade had reasonable suspicion to detain [appellant] while he investigated whether [appellant] was engaged in trafficking of the female passengers. *Terry v. Ohio*, 392 U.S. 1, 22–26 (1968); *State v. Martinez*, [638] S.W.3d [740], [748–

50] (Tex. App.—Eastland no pet.) (officer possessed reasonable suspicion of criminal in circumstances including, *inter alia*, knowledge of recent drug arrests).

29. Officer Meade did not prolong the traffic stop while waiting for a canine officer to perform a free[-]air sniff around the vehicle. *Rodriguez v. United States*, 575 U.S. 348, 354 (2015).

30. Officer Meade was still actively investigating whether [appellant] was engaged in human trafficking of the two female passengers when Officer Gillham and his canine [partner], Yukon, performed a free[-]air sniff around the vehicle. *Id.*

31. Following [c]anine [partner] Yukon's hit on the center console and [the] floorboards of the vehicle, Officer Meade had probable cause to search the vehicle and its contents. *United States v. Hernandez*, 976 F.2d 929, 930 (5th Cir. 1992).

32. The handgun that Officer Meade found inside of the backpack was in [appellant's] possession based on its proximity to him, the magazine that was found in the door pocket closest to [appellant], and the ammunition of the same caliber that was located inside of a [shoe]box that contained [appellant's] insurance card. Likewise, [appellant] was in possession of ammunition. [Appellant] also admitted to possession of the handgun.

33. [Appellant] violated his bond conditions by possessing a handgun and ammunition.

34. The bond condition[s] prohibiting [appellant] from possessing a handgun, ammunition, or any weapon w[ere] related to the safety of a victim and the safety of the community.

35. [Appellant's] bonds were revoked and [appellant] was properly denied bail pending trial. TEX. CODE CRIM. P[ROC.] [ANN.] [a]rt[.] 17.40; TEX. CONST. [a]rt. I, § 11b.

Pretrial Applications for Writ of Habeas Corpus

Appellant filed pretrial applications for writ of habeas corpus in his compelling-prostitution-by-a-minor, assault-of-a-family-member, and trafficking-of-a-child cases, arguing that his confinement and restraint were illegal because he was “entitled to a reasonable bond” and “[t]he bonds currently set in [appellant’s] cases [were] ‘no bond’” which was “not necessary to ensure [appellant’s] appearance at future court proceedings.” Appellant requested that the trial court “reinstate the . . . bonds [previously] posted by” appellant in his three cases.

Appellant attached numerous exhibits to his pretrial applications for writ of habeas corpus, including his unsworn declaration in which he stated that while on pretrial community supervision related to his compelling-prostitution-by-a-minor, assault-of-a-family-member, and trafficking-of-a-child cases, he “attended court settings as requested” and “made every effort to follow the conditions of [his] bonds.” But on July 12, 2021, he was “arrested for [the] misdemeanor [offense of] unlawfully carrying a weapon while operating a motor vehicle, when a handgun was found in the bag of a passenger in [his car].” Before having his bonds revoked, appellant was employed “at a Kroger’s Distribution Center.” Appellant requested that the trial court “re-instate [his] bond[s] pending trial.”

Hearing

The trial court held a hearing on appellant's pretrial applications for writ of habeas corpus. At the hearing, the trial court took judicial notice of its "file in all three of [appellant's] cases" and the record from its hearing on the State's Motions to Revoke Defendant's Bonds. Appellant did not seek to admit any evidence at the hearing on his pretrial applications for writ of habeas corpus and "rel[ie]d upon the arguments contained within" his pretrial applications for writ of habeas corpus.

Trial Court's Ruling

After the hearing on appellant's pretrial applications for writ of habeas corpus, the trial court denied appellant's applications. Appellant's bail remains set at "no bail" in each of appellant's cases, and appellant remains in custody for the felony offenses of compelling prostitution by a minor, assault of a family member, and trafficking of a child.

Jurisdiction

As an initial matter, the State has filed a motion to dismiss for lack of jurisdiction appellant's appeals of the trial court's orders denying his pretrial applications for writ of habeas corpus. The State argues that this Court must dismiss appellant's appeals for lack of jurisdiction because appellant "failed to file a written notice of appeal in any of [his] habeas corpus proceedings."²⁰ Although appellant

²⁰ The State also makes this argument in its appellee's brief.

filed a document titled, “Applicant/Defendant, Donte Walker’s, Motion for Trial Court’s Certification of Right to Appeal Writ of Habeas Corpus Seeking Bond Reinstatement Pursuant to Tex. R. App. P. 25.2(a)(2),” that document, according to the State, did not “constitute[] [a] sufficient notice of appeal” because it did not “convey[] an intention to actually appeal.”

“Courts always have jurisdiction to determine their own jurisdiction.” *Harrell v. State*, 286 S.W.3d 315, 317 (Tex. 2009) (internal quotations omitted). Whether we have jurisdiction is a question of law, which we review de novo. *See Comunidad Corp. v. State*, 445 S.W.3d 401, 404 (Tex. App.—Houston [1st Dist.] 2013, no pet.). When the jurisdiction of the appellate court has not been invoked, the appellate court must dismiss the appeal. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); *Strange v. State*, 258 S.W.3d 184, 185 (Tex. App.—Houston [1st Dist.] 2007, pet. ref’d).

Our appellate jurisdiction is triggered by the timely filing of a sufficient notice of appeal. *See* TEX. R. APP. P. 25.2(b); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *Strange*, 258 S.W.3d at 186. A notice of appeal must be in writing and must be filed with the clerk of the trial court. TEX. R. APP. P. 25.2(c)(1); *Harkcom v. State*, 484 S.W.3d 432, 434 (Tex. Crim. App. 2016); *Strange*, 258 S.W.3d at 186. A notice of appeal is sufficient if it shows the party’s desire to appeal from the judgment or other appealable order. TEX. R. APP. P. 25.2(c)(2); *Harkcom*,

484 S.W.3d at 434. When an appellant has timely filed a document with the trial court that demonstrates his desire to appeal, that document should be construed as a notice of appeal. *Pharris v. State*, 196 S.W.3d 369, 372 (Tex. App.—Houston [1st Dist.] 2006, no pet.); *Palma v. State*, 76 S.W.3d 638, 641–42 (Tex. App.—Corpus Christi–Edinburg 2002, pet. ref’d).

Here, appellant timely filed a document with the trial court clerk titled, “Applicant/Defendant, Donte Walker’s, Motion for Trial Court Certification of Right of Appeal Writ of Habeas Corpus Seeking Bond Reinstatement Pursuant to Tex. R. App. P. 25.2(a)(2).” In the document, appellant requested that the trial court “certify his right of appeal pursuant to Texas Rule of Appellate Procedure 25.5(a)(2) from the [trial court’s] November 10, 2021[] orders, rulings, and/or judgements rendered against him by the [trial] [c]ourt denying relief on his request of Bond Reinstatement and Writ of Habeas Corpus.” (Emphasis omitted.) Appellant’s “Motion for Trial Court Certification of Right of Appeal Writ of Habeas Corpus Seeking Bond Reinstatement Pursuant to Tex. R. App. P. 25.2(a)(2)” clearly evinces a desire to appeal from the trial court’s November 2021 orders denying appellant’s pretrial applications for writ of habeas corpus and acts as a sufficient notice of appeal. *See Harkcom*, 484 S.W.3d at 434 (“Construing the [Texas] Rules of Appellate Procedure liberally leads us to conclude that [the defendant] gave sufficient notice of appeal to invoke the appellate court’s jurisdiction.”); *Pharris*,

196 S.W.3d at 372; *see also* *Jefferson v. State*, 582 S.W.3d 588, 589 (Tex. App.—Waco 2019, order) (letter from defendant filed with trial court clerk stating “I, [defendant], have wrote a statement as to why I feel the jury’s judgement [sic] should be overturned,” constituted sufficient notice of appeal (internal quotations omitted)); *Estrada v. State*, No. 14-17-00410-CR, 2018 WL 5914504, at *2 n.1 (Tex. App.—Houston [14th Dist.] Nov. 13, 2018, pet. ref’d) (mem. op., not designated for publication) (trial counsel’s motion to withdraw stating defendant wanted to appeal constituted sufficient notice of appeal to invoke appellate jurisdiction); *Kahara v. State*, No. 01-05-00414-CR, 2006 WL 3753145, at *1 (Tex. App.—Houston [1st Dist.] Dec. 21, 2006, no pet.) (mem. op., not designated for publication) (noting “[a] document such as a motion to obtain the clerk’s record and reporter’s record is sufficient to show that [a defendant] desires to appeal from the trial court’s judgment”); *Palma*, 76 S.W.3d at 641–42 (letter filed with trial court clerk asking if defendant had appellate lawyer and appeal bond constituted document demonstrating defendant’s desire to appeal); *cf. Roberts v. State*, 270 S.W.3d 662, 665 (Tex. App.—San Antonio 2008, no pet.) (holding document filed by defendant did not constitute notice of appeal because it did not “in some manner allude to the desire to appeal”).

As the Texas Court of Criminal Appeals has explained, the Texas Rules of Appellate Procedure are to be construed reasonably, yet liberally, so that the right to

appeal is not lost by imposing requirements not absolutely necessary to effect the purpose of a rule. *Harkcom*, 484 S.W.3d at 434; *see also Williams v. State*, 603 S.W.3d 439, 447 (Tex. Crim. App. 2020) (“[T]he rules involving notice of appeal should not be construed to set traps for a defendant.”). A person’s right to appeal a civil or criminal judgment does not depend upon traipsing through a maze of technicalities. *Harkcom*, 484 S.W.3d at 434. There are no “magic words” required for a document to constitute a notice of appeal. *Id.* (internal quotations omitted.) All that is required is that a notice of appeal be in writing, be timely filed, and show a party’s desire to appeal from the trial court’s judgment or other appealable order. *Id.*; *see also* TEX. R. APP. P. 25.2.

Because appellant’s “Motion for Trial Court Certification of Right of Appeal Writ of Habeas Corpus Seeking Bond Reinstatement Pursuant to Tex. R. App. P. 25.2(a)(2)” constitutes a sufficient notice of appeal, we hold that we have jurisdiction over appellant’s appeals of the trial court’s orders denying his pretrial applications for writ of habeas corpus. *See Harkcom*, 484 S.W.3d at 434. We deny the State’s motion to dismiss for lack of jurisdiction.

Habeas Relief

In his sole issue, appellant argues that the trial court erred in denying him habeas relief because he is entitled to a “reasonable bond,” “[t]he bond currently set

in [his] case[s] is ‘no bond,’” and “that is not necessary to ensure [appellant’s] appearance at future court proceedings.”

A trial court’s ruling on a pretrial application for writ of habeas corpus is reviewed for an abuse of discretion. *Kniatt v. State*, 206 S.W.3d 657, 664 (Tex. Crim. App. 2006); *Ex parte Wheeler*, 203 S.W.3d 317, 324 (Tex. Crim. App. 2006); *Ex parte McIntyre*, 558 S.W.3d 295, 299 (Tex. App.—Fort Worth 2018, pet. ref’d). A trial court abuses its discretion if it acts without reference to any guiding rules or principles. *Ex parte Hunt*, 138 S.W.3d 503, 505 (Tex. App.—Fort Worth 2004, pet. ref’d). A reviewing court will not disturb a decision of the trial court if that decision is within the zone of reasonable disagreement. *Ex parte Tata*, 358 S.W.3d 392, 397 (Tex. App.—Houston [1st Dist.] 2011, pet. dism’d). We view the facts in the light most favorable to the trial court’s ruling. *See Ex parte McIntyre*, 558 S.W.3d at 299. We will uphold the trial court’s ruling if it is correct under any theory of law. *Id.*

Before conviction, every citizen accused of a criminal offense has a “strong interest in liberty.” *United States v. Salerno*, 481 U.S. 739, 750 (1987). Thus, the Eighth Amendment to the United States Constitution provides that “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. CONST. amend. VIII; *see also Schilb v. Kuebel*, 404 U.S. 357, 365 (1971). And the Texas Constitution guarantees that “[a]ll prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is

evident.” TEX. CONST. art. I, § 11; *see also* TEX. CONST. art. I, § 13 (“Excessive bail shall not be required”); TEX. CODE CRIM. PROC. ANN. art. 1.07 (“Any person shall be eligible for bail unless denial of bail is expressly permitted by the Texas Constitution or by other law.”). “As a general rule, bail may not be denied.” *Criner v. State*, 878 S.W.2d 162, 163 (Tex. Crim. App. 1994); *but see Ex parte McIntyre*, 558 S.W.3d at 299 (“The Texas [C]onstitution . . . provides, however, that bail may be denied in certain circumstances.”).

However, a defendant’s right to pretrial bail may be subordinated to the greater needs of society. *Salerno*, 481 U.S. at 750–51; *see also Ex parte Beard*, 92 S.W.3d 566, 573 (Tex. App.—Austin 2002, pet. ref’d) (noting “a balance must be struck between the defendant’s presumption of innocence and the State’s interest”). In balancing the liberty interest of a defendant and the safety interest of society, the Texas Legislature has adopted rules and guidelines for determining when a defendant should obtain pretrial release through the posting of adequate bail. *See* TEX. CODE CRIM. PROC. ANN. arts. 17.01 (“‘Bail’ is the security given by the accused that he will appear and answer before the proper court the accusation brought against him”), 17.15 (“Rules for setting amount of bail”); *Ex parte Jefferson*, No. 07-20-00123-CR, 2020 WL 4249743, at *2 (Tex. App.—Amarillo July 23, 2020, no pet.) (mem. op., not designated for publication).

In exercising its discretion in setting the dollar amount of bail and any conditions of bail, a trial court must consider, among other factors, the “future safety of the victim of the alleged offense[s] and the community.” See TEX. CODE CRIM. PROC. ANN. art. 17.15(5); see also TEX. CODE CRIM. PROC. ANN. art. 17.40 (“To secure a defendant’s attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense[s] or to the safety of the community.”); *Golden v. State*, 288 S.W.3d 516, 518 (Tex. App.—Houston [1st Dist.] 2009, pet. ref’d). In fact, the Texas Constitution authorizes a trial court to deny bail pending trial when a defendant violates a condition of release on bond related to the safety of the complainant of the alleged offenses or to the safety of the community. TEX. CONST. art. I, § 11b; see also *Ex parte McIntyre*, 558 S.W.3d at 299 (“The Texas [C]onstitution . . . provides . . . that bail may be denied in certain circumstances,” and “[o]ne of the circumstances in which the Texas [C]onstitution authorizes denial of bail is when an accused has violated a condition of his pretrial release related to the safety of the community.”).

Here, appellant was arrested in December 2020 for the felony offenses of compelling prostitution by a minor, assault of a family member, and trafficking of a child. The trial court set appellant’s bail at \$40,000 for the compelling-prostitution-by-a-minor offense, \$15,000 for the

assault-of-a-family-member offense, and \$20,000 for the trafficking-of-a-child offense. Appellant posted bond in each of his cases and was released from custody.

The trial court placed appellant on pretrial community supervision and imposed conditions on appellant's release on bond, including that appellant shall not have "firearms, ammunition or any other weapons" and "must not use or possess a firearm." Appellant signed the trial court's Order for Pretrial Supervision and Bond Conditions in each of his three cases, which informed appellant that the "[f]ailure to abide by the[] bond conditions [could] result in [appellant's] bond[s] being forfeited or revoked and [appellant being] arrested and confined" pending trial. By signing the Orders for Pretrial Supervision and Bond Conditions, appellant acknowledged that he "underst[ood] that the [trial] court [was] ordering [his] compliance with the [bond] conditions . . . as a requirement of [his] . . . release on bond." Appellant "agree[d] to the[] [bond] conditions" and represented that he "underst[ood] that [his] failure to comply with the[] [bond] conditions [could] result in the forfeiture or revocation of [his] bond[s] and confinement."

Later, the State filed a Motion to Revoke Defendant's Bond in each of appellant's cases, requesting that the trial court revoke appellant's bonds because on July 12, 2021, while "on bond for [the felony offenses of] [t]rafficking of a [c]hild, [c]ompelling [p]rostitution [by a minor], and [a]ssault [of a] [f]amily [m]ember,"

appellant “was arrested for and charged with carrying a handgun in a motor vehicle.”²¹

The trial court held a hearing on the State’s Motions to Revoke Defendant’s Bonds. At the hearing, the State presented evidence of appellant’s violation of his bond conditions which required appellant not to have “firearms, ammunition or any other weapons” and not to “use or possess a firearm.” At the conclusion of the hearing, the trial court found that the State “ha[d] shown by a preponderance of the evidence that [appellant] was ordered not to possess firearms, ammunition[,] or other weapons while [released] on bond as a condition of his bond[s],” “[t]he purpose of th[e] [bond] condition[s] was for the protection of any alleged [complainant] in the cases in which [appellant was] charged and for the protection of the community as a whole,” and the State “ha[d] . . . shown by a preponderance of the evidence that [appellant] was in possession of a firearm and ammunition in violation of the bond conditions.” Thus, the trial court ordered appellant’s bonds revoked in each of his three cases and that appellant be “detained [with] no bond[s] pursuant to Texas Constitution, Article [I], [s]ection 11b.”²²

²¹ See TEX. PENAL CODE ANN. § 46.02.

²² See TEX. CONST. art. I, § 11b (“Violation of condition of release pending trial; denial of bail”).

The trial court also signed an order granting the State’s Motion to Revoke Defendant’s Bond in each of appellant’s cases and ordering that appellant be detained with “no bond[s] pursuant to T[exas] Constitution[,] Article I, [s]ection 11b.”²³ The trial court found that the State had “shown by a preponderance of the evidence” that appellant “was ordered to not possess firearms, ammunition, or other weapons while on bond as a condition of his bond[s],” “[t]he purpose of th[e] condition[s] was for the protection of any alleged [complainant] and the community as a whole,” and appellant “was in possession of a firearm and ammunition in violation of his bond conditions.” The trial court ordered appellant “remanded to the custody of the sheriff” and set appellant’s bail at “no bail” for each of the felony offenses with which appellant is charged.

Finally, the trial court issued the following findings of fact and conclusions of law:

18. . . . Officer Meade conducted a search of [appellant’s] vehicle.
19. Officer Meade located a loaded handgun inside of a backpack belonging to the female that was sitting in [the] front passenger seat.
20. Officer Meade located a magazine for the handgun in the driver’s side door pocket. The magazine was designed to fit the handgun that was located inside of [appellant’s] vehicle.
21. Officer Meade found ammunition and a holster for the handgun inside of a shoebox that was behind the driver’s seat. Officer Meade

²³ *See id.*

found an insurance card with [appellant's] name on it inside of the shoebox where the ammunition and holster were found.

22. The handgun was operable and capable of firing.

23. After being arrested for [the offense of] [c]arrying a [h]andgun in a [v]ehicle, [appellant] made an admission that the handgun was his and that it was given to him.

24. [Appellant] was in possession of a handgun and ammunition.

....

32. The handgun that Officer Meade found inside of the backpack was in [appellant's] possession based on its proximity to him, the magazine that was found in the door pocket closest to [appellant], and the ammunition of the same caliber that was located inside of a [shoe]box that contained [appellant's] insurance card. Likewise, [appellant] was in possession of ammunition. [Appellant] also admitted to possession of the handgun.

33. [Appellant] violated his bond conditions by possessing a handgun and ammunition.

34. The bond condition[s] prohibiting [appellant] from possessing a handgun, ammunition, or any weapon w[ere] related to the safety of a victim and the safety of the community.

35. [Appellant's] bonds were revoked and [appellant] was properly denied bail pending trial. TEX. CODE CRIM. P[ROC.] [ANN.] [a]rt[.] 17.40; TEX. CONST. [a]rt. I, § 11b.

Texas Constitution Article 1, section 11b provides:

Any person who is accused in this [S]tate of a felony or an offense involving family violence, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release may be denied bail pending trial if a judge or magistrate in this [S]tate determines by a preponderance of the evidence at a subsequent hearing that the person violated a condition of release

related to the safety of a victim of the alleged offense or to the safety of the community.

TEX. CONST. art. I, § 11b. Thus, under Article I, section 11b, a trial court may deny a defendant bail if a defendant (1) is accused in Texas of a felony or an offense involving family violence, (2) is released on bail pending trial, (3) has his bail subsequently revoked for violating a condition of his release, and (4) is found to have violated a condition that relates to the safety of the complainant or the safety of the community. *Id.*; *Ex parte McIntyre*, 558 S.W.3d at 302; *see also Ex parte Vazquez*, Nos. 05-13-00165-CR, 05-13-00166-CR, 2013 WL 1760614, at *3 (Tex. App.—Dallas Apr. 24, 2013, no pet.) (mem. op., not designated for publication) (noting Texas Constitution Article I, section 11b “governs situations in which bail, although initially granted, has been revoked because the defendant violated a condition of his release” and it allows “the subsequent denial of bail . . . [if] (1) the defendant is charged with a felony[] or (2) the defendant is charged with an offense involving family violence”).

In his pretrial applications for writ of habeas corpus, appellant did not mention Texas Constitution Article I, section 11b and did not address the trial court’s ability to deny him bail under Article I, section 11b.²⁴ Appellant also did not attack the

²⁴ Appellant also does not address Texas Constitution Article I, section 11b in his briefing on appeal or make any argument related to the trial court’s authority under Article I, section 11b to deny appellant bail. *See* TEX. R. APP. P. 38.1; *see also Chaves v. State*, 630 S.W.3d 541, 555 (Tex. App.—Houston [1st Dist.] 2021, no

sufficiency of the evidence supporting the trial court’s findings that appellant violated conditions of his bonds and that the bond conditions were in place to ensure the complainant’s safety and the safety of the community. And appellant, in his pretrial applications for writ of habeas corpus, did not dispute that his bond conditions required him to not to have “firearms, ammunition or any other weapons” and “use or possess a firearm,” that the bond conditions related to the complainant’s safety or the safety of the community, or that he violated his bond conditions. In short, appellant wholly neglected to address the trial court’s constitutionally granted authority to deny bail in a felony or family-violence proceeding if it found that the defendant had violated a condition of his bond that was related to the complainant’s safety or the safety of the community. *See Ex parte Gonzalez*, No. 02-20-00128-CR, 2020 WL 6325815, at *2 (Tex. App.—Fort Worth Oct. 29, 2020, no pet.) (mem. op., not designated for publication) (holding trial court did not err in denying defendant’s pretrial application for writ of habeas corpus where defendant, in seeking habeas relief, “did not attack the sufficiency of the evidence supporting the trial court’s findings of his three bond-condition violations and their threats to [the complainant’s] safety”); *see also Ex parte Evans*, 410 S.W.3d 481, 485 (Tex. App.—Fort Worth 2013, pet. ref’d) (defendant must raise argument in pretrial application

pet.) (“An appellant waives an issue on appeal if he does not adequately brief th[e] issue . . .”).

for writ of habeas corpus filed in trial court for appellate court to be able to consider it on appeal); *State v. Romero*, 962 S.W.2d 143, 144 (Tex. App.—Houston [1st Dist.] 1997, no pet.) (“We may not consider grounds not raised before the trial court.”).

The trial court’s orders denying appellant’s pretrial applications for writ of habeas corpus may be sustained on any theory of law applicable to the case. *Ex parte McIntyre*, 558 S.W.3d at 299. As such, we cannot conclude that the trial court erred in revoking appellant’s bonds and setting appellant’s bail at “no bail” for the felony offenses of compelling prostitution by a minor, assault of a family member, and trafficking of a child. *See* TEX. CONST. art. I, § 11b; *Ex parte Gonzalez*, 2020 WL 6325815, at *2. We hold that the trial court did not err in denying appellant’s pretrial applications for writ of habeas corpus.

We overrule appellant’s sole issue.

Conclusion

We affirm the orders of the trial court.

Julie Countiss
Justice

Panel consists of Chief Justice Radack and Justices Countiss and Farris.

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