Affirmed as Modified and Memorandum Opinion filed August 23, 2011.

In The

Fourteenth Court of Appeals

NO. 14-10-00952-CR

MARK ANTHONY AMBRIZ, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 262nd District Court
Harris County, Texas
Trial Court Cause No. 1124220

MEMORANDUM OPINION

Appellant Mark Anthony Ambriz appeals the trial court's judgment adjudicating his guilt. In six issues, he challenges the trial court's evidentiary rulings at the adjudication hearing, the sufficiency of the evidence supporting three grounds for adjudication, admission of his custodial statement, and the sufficiency of the court's written findings that

he violated the terms of his community supervision. We modify the judgment to reflect appellant's pleas to the grounds for adjudication, and affirm the judgment as modified.

Background

Appellant pleaded guilty in 2007 to the offense of aggravated assault of a family member. The trial court deferred adjudication and placed appellant on community supervision for five years.

In 2010, the State filed a motion to adjudicate guilt. The State alleged appellant violated the conditions of his community supervision by (1) committing the offense of murder on August 8, 2010, (2) failing to report to his community supervision officer in July 2010, (3) failing to participate in the community service restitution program at the court-ordered rate of 10 hours a month, (4) failing to pay supervision fees and being $178.00 in arrears as of August 11, 2010, (5) failing to pay a laboratory processing fee and being $15.00 in arrears as of August 11, 2010, and (6) failing to enter a G.E.D. program beginning December 21, 2007.

At the adjudication hearing, appellant pleaded "true" to all of the allegations in the State's motion with the exception of the allegation he had committed the offense of murder. The court then entered a plea of not true to paragraph one and true to paragraphs two through six. Based on appellant's pleas, the court made a finding of true to paragraphs two through six.

Sergeant Wayne Kuhlman of the Harris County Sheriff's homicide division was the only witness for the State. He described his investigation of a homicide near appellant's residence. Over appellant's hearsay objections, Kuhlman testified the cause of death was a single stab wound to the victim's neck and described what he had seen in video recordings from a camera in the first responding officer's vehicle. Kuhlman testified that, based on the information he collected in his investigation, he was able to obtain an arrest warrant for appellant. After appellant was arrested, Kuhlman interviewed him in

Kuhlman's office. Appellant initially denied being at the scene; but, when confronted with contrary information, appellant claimed he had acted in self-defense.

Appellant testified in his own behalf. He, his next door neighbor, and the victim had argued on the night of the stabbing. When the other two men removed their shirts "in a violent manner," appellant thought they were going to hurt him. Appellant could not say whether he or his neighbor stabbed the victim. Appellant's neighbor continued to struggle with appellant. Appellant, however, broke free and fled because "it was a dangerous situation." He did not know anyone had been killed.

At the close of evidence, the trial court orally announced that it found "the allegations all to be true." In its written judgment, the court found:

> While on community supervision, [appellant] violated the terms and conditions of community supervision as set out in the State's ORIGINAL Motion to Adjudicate Guilt as follows: DEF. COMMITTED LAW VIOLATION IN HARRIS COUNTY, TX ON 8-8-10, FAILED TO COMM SUPER, FAILED TO PARTICIPATE REST PROGRAM, TO PAY SUPER FEES, LAB FEES. TO ENTER G.E.D. PROGRAM.

The written judgment also contains the notation appellant had pleaded "not true" to the "motion to adjudicate."

Discussion

I. Standard of Review

We review the imposition of guilt in the same manner as we review a revocation of community supervision. *See* Tex. Code Crim. Proc. art. 42.12, § 5(b) (Vernon 2006). A trial court's order revoking community supervision is reviewed for an abuse of discretion. *See Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006); *Moore v. State*, 11 S.W.3d 495, 498 (Tex. App.—Houston [14th Dist.] 2000, no pet.). Proof of any one of the alleged violations suffices to support a revocation of community supervision. *Sanchez v. State*, 603 S.W.2d 869, 871 (Tex. Crim. App. [Panel Op.] 1980); *Moore*, 11 S.W.3d at 498. Furthermore, a plea of true to any one of the alleged violations in the State's motion

to revoke community supervision is sufficient to support the trial court's order of revocation. *Moore*, 11 S.W.3d at 498 n.1. With these principles and standards in mind, we turn to appellant's issues.

II. Analysis

Appellant contends the judgment adjudicating his guilt is erroneous because (1) the trial court abused its discretion in admitting hearsay about the victim's cause of death, (2) the trial court erred and abused its discretion in admitting hearsay statements implicating appellant as the person responsible for the murder, (3) there was insufficient evidence appellant committed murder, (4) the State failed to present necessary evidence appellant was able to pay the fees that were the subject of the fourth and fifth grounds of the State's motion, (5) appellant's oral custodial statements should have been received into evidence, and (6) the written order setting forth the reasons for adjudication is insufficient.[1] Appellant's first, second, third, and fifth issues therefore relate to the State's allegation appellant committed the new offense of murder (ground one of the motion). Appellant's fourth issue relates to the State's allegations appellant was in arrears on the payment of fees (grounds four and five of the motion).

Issues one through five. Other than the sufficiency of the written judgment, discussed below, appellant does not raise any contentions concerning the findings that he failed to report to his community supervision officer in July 2010 (ground two), failed to participate in the community service restitution program at the court-ordered rate (ground three), and failed to enter a G.E.D. program (ground six). Appellant pleaded "true" to these three grounds. Any one of these grounds is sufficient to support adjudication of his guilt. *See Moore*, 11 S.W.3d at 498 n.1. Accordingly, we overrule appellant's issues one through five without further addressing them. *See Moore v. State*, 605 S.W.2d 924, 926

[1] Appellant does not raise any issues related to sentencing.

(Tex. Crim. App. 1980) ("We need not address appellant's other contentions since one sufficient ground for revocation will support the court's order to revoke probation.").

Issue six. In issue six, appellant contends that the trial court's oral pronouncement of adjudication is insufficient to sustain revocation of appellant's community supervision because the written adjudication order does not clearly and unequivocally set forth the reasons in support of adjudication. Appellant bases his complaint on the following portion of the written judgment: "DEF. COMMITTED LAW VIOLATION IN HARRIS COUNTY, TX ON 8-8-10, FAILED TO COMM SUPER, FAILED TO PARTICIPATE REST PROGRAM, TO PAY SUPER FEES, LAB FEES. TO ENTER G.E.D. PROGRAM." In addition to faulting the written judgment for containing "merely . . . abbreviated notes" regarding the violations, appellant faults the judgment for not containing the dates of the violations other than the law violation on August 8, 2010.

The abbreviations in the order reflecting the court's findings track seriatim the allegations in the State's Motion to Adjudicate Guilt — allegations the trial court found to be true, i.e., committing the offense of murder on August 8, 2010, failing to report to his community supervision officer in July 2010, failing to participate in the community service restitution program at the court-ordered rate of 10 hours a month, failing to pay supervision fees and being $178.00 in arrears as of August 11, 2010, failing to pay a laboratory processing fee and being $15.00 in arrears as of August 11, 2010, and failing to enter a G.E.D. program beginning December 21, 2007. There is nothing in the record to indicate appellant requested the court to provide more specific findings. "An order revoking probation is sufficient, even though it does not recite the findings and conclusions upon which the trial court acted, absent any request for such findings." *King v. State*, 649 S.W.2d 42, 46 (Tex. Crim. App. 1983).

The sole authority on which appellant relies is *Gordon v. State*, 4 S.W.3d 32, 38 (Tex. App.—El Paso 1999, no pet.). In *Gordon*, the trial court found that the defendant had violated two conditions of probation by committing the offense of possession of

cocaine. *Id.* at 35. The appellate court held that seizure of the cocaine was illegal; thus the grounds on which the trial court relied no longer were supported by the evidence. *See id.* at 38. In response to the State's alternative reliance on appellant's failure to pay supervision fees as a ground for revocation, the *Gordon* court stated, without authority, "Even though the trial court orally found that Appellant failed to pay his supervision fee on two occasions, the court did not include that finding in the written revocation order. Consequently, it will not serve to support the revocation." *Id.*

In the present case, the trial court did refer in abbreviated form to the grounds on which we affirm the judgment of adjudication. Because *Gordon* is without apparent authority and is distinguishable, we do not find it persuasive in deciding the present case.

For the preceding reasons, we overrule appellant's sixth issue.

State's request to reform the judgment. The State asks this court to reform the following portion of the trial court's judgment: "Plea to the Motion to Adjudicate: NOT TRUE." The reporter's record of the adjudication hearing establishes that appellant pleaded "not true" only to the first allegation in the State's motion to adjudicate; he pleaded "true" to the remaining five allegations.

When a court of appeals has the necessary data and evidence before it for reformation, it may reform an erroneous trial court judgment to state the truth. *Nolan v. State*, 39 S.W.3d 697, 698 (Tex. App.—Houston [1st Dist.] 2001, no pet.); *see Storr v. State*, 126 S.W.3d 647, 654–55 (Tex. App.—Houston [14th Dist.] 2004, pet ref'd). The authority of the appellate court to do so is not dependent on request of any party; the appellate court may act sua sponte. *See Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd) (en banc), *cited with approval in French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992).

For the preceding reasons, we modify the judgment of the trial court. We delete the following language: "Plea to the Motion to Adjudicate: NOT TRUE." In its place, we

substitute the following: "Plea to the Motion to Adjudicate: NOT TRUE to allegation of committing a new offense and TRUE to allegations of failing to report to his community supervision officer in July 2010, failing to participate in the community service restitution program at the court-ordered rate of 10 hours a month, failing to pay supervision fees and being $178.00 in arrears as of August 11, 2010, failing to pay a laboratory processing fee and being $15.00 in arrears as of August 11, 2010, and failing to enter a G.E.D. program beginning December 21, 2007."

Conclusion

We modify the judgment to reflect appellant's pleas to the State's allegations. Having overruled appellant's issues, we affirm the judgment as modified.

/s/ William J. Boyce
Justice

Panel consists of Chief Justice Hedges and Justices Seymore and Boyce.
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