

Affirmed and Memorandum Opinion filed May 5, 2016.



In The

Fourteenth Court of Appeals

NO. 14-15-00676-CR

JACOB RICHARD FIPPS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 149th District Court
Brazoria County, Texas
Trial Court Cause No. 70418**

M E M O R A N D U M O P I N I O N

Appellant Jacob Richard Fipps appeals the trial court's judgment revoking his probation. We affirm.

BACKGROUND

Appellant was indicted for burglary of a habitation and a jury convicted him of the offense. Appellant elected to have the court assess punishment, which the court set at ten years' confinement. The court suspended this sentence and placed

appellant on community supervision for a period of ten years, conditioned on his compliance with certain terms and conditions. These conditions included avoiding persons of disreputable or harmful character, reporting each month to the Supervision Officer, residing within Brazoria County, completing 200 hours of community service, and paying a supervision fee.

The State filed a Petition for Revocation of Probated Sentence. At a hearing, appellant pleaded “True” to each alleged violation of his probation conditions. The State offered no evidence. The trial court found each allegation to be true but placed appellant on probation again. The court amended the terms of the probation to include requirements for appellant to report to the court periodically, specifying the dates.

After appellant failed to report to the court as ordered, the State filed a second Petition for Revocation of Probated Sentence and later filed an Amended Petition for Revocation of Probated Sentence. After reviewing the testimony and evidence at a hearing, the court found certain allegations to be true; it revoked appellant’s probation and sentenced him to ten years’ confinement in the Institutional Division of the Texas Department of Criminal Justice.

ANALYSIS

In appellant’s sole issue on appeal, he contends the trial court abused its discretion in revoking his probation. Specifically, appellant contends the State failed to prove by a preponderance of the evidence that he violated the terms and conditions of his community supervision.

I. Standard of Review

We review an order revoking community supervision under an abuse-of-discretion standard. *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006).

In conducting this review, we view the evidence in the light most favorable to the trial court's order. *Greer v. State*, 999 S.W.2d 484, 486 (Tex. App.—Houston [14th Dist.] 1999, pet. ref'd). The trial court is the exclusive judge of the credibility of the witnesses and determines if the allegations in the motion are sufficiently demonstrated. *Id.* The State must prove by a preponderance of the evidence that the defendant violated a condition of his probation. *Id.*

A trial court does not abuse its discretion in revoking probation if there is at least one sufficient ground for revocation. *See Smith v. State*, 286 S.W.3d 333, 342 (Tex. Crim. App. 2009); *Joseph v. State*, 3 S.W.3d 627, 640 (Tex. App.—Houston [14th Dist.] 1999, no pet.). If there is sufficient evidence to support at least one ground for revocation, we will affirm. *See Jones v. State*, 571 S.W.2d 191, 193-94 (Tex. Crim. App. 1978). To prevail on appeal, an appellant “must successfully challenge all the findings that support the revocation order.” *Joseph*, 3 S.W.3d at 640.

II. Error in Revoking Appellant's Community Supervision

The State asserted as the ninth alleged violation that appellant “failed to work faithfully, without compensation, at a Community-Service Task assigned by the Court” during July, September, October, November, and December 2014, and again during the months of January, February, and March 2015. Appellant argues the State failed to prove this allegation by a preponderance of the evidence at the June 2, 2015 hearing; he also argues that these allegations had been adjudicated in the earlier revocation hearing.

At the February 23, 2015 revocation hearing, the State contended that appellant failed to work faithfully, without compensation, at a Community-Service Task assigned by the Court, during the months of May, June, July, August, September, October, and November 2014. The State did not contend appellant

violated this condition during the months of December 2014 or January, February, and March 2015—as it did in the amended petition to its second petition for revocation, heard in June 2015.

When a probationer is returned to probation, “there must be a determination that he breached the conditions *after* he was returned to probation (or that there is newly discovered evidence of a previous violation which was not known at the time of the hearing).” *Rogers v. State*, 640 S.W.2d 248, 252 (Tex. Crim. App. 1981) (op. on State’s first motion for reh’g) (emphasis in original). There is no evidence in the record before us that the first hearing (in February 2015) addressed violations of this condition during the months of December 2014 and January and February 2015. Additionally, the violation occurring in March 2015 occurred after appellant was returned to probation in February 2015.

The State presented testimony at the probation revocation hearing from probation officer Terry Foster. In regards to allegation nine, Foster testified that appellant worked four hours of community service in May 2014, but had not completed any time since then. When the State asked appellant if he had completed only four hours of community service in total, appellant testified: “I’m pretty sure it’s correct.” The trial court, being the exclusive judge of the credibility of the witnesses, did not abuse its discretion in finding there was sufficient evidence to support this alleged violation.

Because a single violation of a probation condition is sufficient to support the trial court’s decision to revoke probation, we need not address appellant’s other contentions. *See Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. [Panel Op.] 1980).

The trial court did not abuse its discretion in finding a violation of condition nine. Appellant's sole issue is overruled.

CONCLUSION

Accordingly, we affirm the trial court's judgment.

/s/ William J. Boyce
Justice

Panel consists of Chief Justice Frost and Justices Boyce and Wise.
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