

Affirmed Memorandum Opinion filed March 28, 2017.



In the

Fourteenth Court of Appeals

NO. 14-16-00326-CR

WILLIAM MARK RHODES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 248th District Court
Harris County, Texas
Trial Court Cause No. 1259408**

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

William Mark Rhodes appeals from the trial court's adjudication of guilt and revocation of his community supervision for burglary of habitation with intent to commit assault, a second-degree felony. *See* Tex. Penal Code § 30.02 (West 2015). In one issue, appellant contends the evidence is legally insufficient to support the adjudication of guilt. We affirm.

BACKGROUND

Rhodes pleaded guilty to burglary of habitation with intent to commit assault on complainant, his ex-wife. The trial court made no finding of guilt and placed appellant on community supervision for five years beginning in November 2010. The trial court ordered that appellant abide by 29 conditions of community supervision.

Appellant's conditions of community supervision included the following:

- Submit to **RANDOM** drug/alcohol analysis by authorized personnel of HCCS&CD, including any department having courtesy supervision jurisdiction. Provide proof of any medication legally prescribed to you prior to submitting a specimen. **YOU WILL SUBMIT TO A URINALYSIS ON YOUR INITIAL OFFICE VISIT AND THEN AS DIRECTED THEREAFTER FOR THE DURATION OF YOUR SUPERVISION.**
- You are not to contact the complainant, **MEGGEN ELISE RHODES**, in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court. **YOU MAY NOT GO NEAR HER PLACE OF EMPLOYMENT NOR HER HOME.**

(emphasis in original). The State filed a motion to adjudicate guilt and the trial court held a hearing on the matter. Appellant entered a plea of “not true” to the allegations in the motion to adjudicate. At the conclusion of the hearing on the motion to adjudicate, the trial court found that appellant had violated the terms of his community supervision and adjudicated him guilty of burglary of a habitation with intent to commit assault. In the judgment adjudicating guilt, the trial court found:

While on community supervision, Defendant violated the terms and conditions of community supervision as set out in the State's

ORIGINAL Motion to Adjudicate Guilt as follows: **FAILURE TO SUBMIT TO RANDOM URINALYSIS; FAILURE TO AVOID CONTACT WITH COMPLAINANT.**

(emphasis in original).

The trial court assessed punishment at six years' confinement in the Institutional Division of the Texas Department of Criminal Justice. On March 23, 2016, the Court of Criminal Appeals held that the appellant was entitled to file an out-of-time appeal limited to the adjudication of guilt and the sentence imposed after his adjudication. Appellant filed a notice of appeal.

In his sole issue, appellant argues that no evidence supports the trial court's findings that he failed to (1) submit to a random urinalysis and (2) avoid contact with complainant. We begin by addressing appellant's second sub-issue because it is dispositive. *See* Tex. R. App. P. 47.1.

ANALYSIS

We review a trial court's decision to revoke community supervision for an abuse of discretion. *Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012). Revocation is appropriate when a preponderance of the evidence supports any one of the State's allegations that the defendant violated a condition of his community supervision. *See id.* The trial court is the sole judge of the credibility of the witnesses and the weight to be given their testimony. *Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013).

Appellant argues that complainant "did not testify that [he] had called her, sent her messages, contacted her online, visited her home, or showed up *at* her place of employment." (emphasis added). Similarly, appellant argues that no evidence showed he "tried to *enter* [complainant's] place of employment or even go near it." (emphasis added). However, the relevant condition of appellant's

community supervision states: **YOU MAY NOT GO NEAR HER PLACE OF EMPLOYMENT NOR HER HOME.** (emphasis in original). Therefore, entry is not required. Instead, appellant's proximity to complainant's place of employment would violate the condition.

Here, the evidence shows that appellant went near complainant's workplace in downtown Houston, Texas. Complainant testified that on June 13, 2012, around her customary time in the afternoon, she went outside of the building where she worked to smoke a cigarette in her usual spot near the rear entrance. Complainant then saw appellant driving in the lane closest to her. Appellant "turned his whole body" toward her and "stared right at [her] with a very intimidating look on his face." After appellant turned onto another street, complainant saw him continue to stare at her "the whole way down" the perpendicular street.

Appellant relies on the testimony of Melissa Richardson, his girlfriend, to argue that the State has not satisfied its burden. Richardson testified that appellant drove her to and from work, went to lunch with her, and that her office building was within a few blocks of complainant's workplace. However, Richardson's testimony does not change or contradict complainant's testimony that appellant went near complainant's work place. Even if it did, the trial judge could have disbelieved, and assigned no weight to, Richardson's testimony. *See id.* Further, the terms of the appellant's community supervision required that he not go near complainant's place of employment "for any reason except as specifically permitted by the Court." There is no evidence the court granted appellant permission to go near complainant's workplace in the course of visiting Richardson.

The evidence sufficiently supports the trial court's finding that appellant violated the terms of his community supervision by failing to avoid contact with

complainant. We need not address the other alleged violations. *See Leonard*, 385 S.W.3d at 576 (requiring a preponderance of the evidence to support one of the allegations that the defendant violated a condition of community supervision); Tex. R. App. P. 47.1. Accordingly, the trial court did not abuse its discretion in revoking appellant's community supervision and adjudicating his guilt. We overrule appellant's sole issue on appeal.

CONCLUSION

We affirm the judgment of the trial court.

/s/ Marc W. Brown
Justice

Panel consists of Justices Boyce, Jamison, and Brown.
Do Not Publish — TEX. R. APP. P. 47.2(b).