

Affirmed and Memorandum Opinion filed October 5, 2017.



In The

Fourteenth Court of Appeals

**NO. 14-16-00951-CR
NO. 14-16-00952-CR**

JEFFREY WAYNE CLIFTON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 212th District Court
Galveston County, Texas
Trial Court Cause Nos. 13-CR-0747 & 13-CR-1775**

MEMORANDUM OPINION

In this appeal from two judgments adjudicating guilt, the sole question presented is whether the evidence is legally sufficient to support the trial court's revocation of community supervision. Concluding that the evidence is sufficient, we affirm the trial court's judgments.

BACKGROUND

In trial court cause number 13-CR-0747 (appeal number 14-16-00951-CR), appellant was charged with assaulting a family member. And in trial court cause number 13-CR-1775 (appeal number 14-16-00952-CR), appellant was charged with possessing less than one gram of cocaine. Appellant pleaded guilty to both charges, and the trial court deferred an adjudication of guilt and placed him on community supervision for a period of two years.

Sixteen months later, the State moved to revoke appellant's community supervision and adjudicate his guilt. The State alleged that appellant had violated the terms of his community supervision in several ways, including (1) by failing to report to his supervision officer; (2) by failing to abstain from drugs; (3) by failing to pay certain costs and fees; and (4) by failing to enroll in certain service and recovery programs. Appellant pleaded "true" to the allegations that he had failed to abstain from drugs and to certain allegations regarding his failure to pay costs and fees, but he pleaded "not true" to everything else. Following an evidentiary hearing, the trial court found that all of the allegations were true. The court revoked appellant's community supervision and sentenced him to six years' imprisonment on the assault charge and two years' imprisonment on the cocaine charge, with the two terms of imprisonment running concurrently.

ANALYSIS

Our review of a judgment adjudicating guilt is limited to determining whether the trial court abused its discretion. *See Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). When a trial court finds several violations of the defendant's terms of community supervision, we must affirm the judgment if the proof of any single allegation is legally sufficient. *See Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. [Panel Op.] 1980).

When conducting a sufficiency analysis, we consider all of the evidence in the light most favorable to the trial court's decision. *See Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984). Because the burden of proof in a revocation proceeding is by a preponderance of the evidence, we will conclude that the evidence is legally sufficient if the trial court could find that the greater weight of the credible evidence created a reasonable belief that a condition of community supervision had been violated as alleged. *See Battle v. State*, 571 S.W.2d 20, 22 (Tex. Crim. App. [Panel Op.] 1978).

Appellant contends that the evidence is insufficient in this case, but he challenges only the finding that he failed to pay certain costs and fees. He does not challenge any of the other findings that the trial court made. Even if we assumed for the sake of argument that the evidence were insufficient to show that appellant failed to pay certain costs and fees, we could not disturb the trial court's decision because appellant has not challenged every finding in support of that decision. *See Jones v. State*, 571 S.W.2d 191, 193–94 (Tex. Crim. App. [Panel Op.] 1978); *Joseph v. State*, 3 S.W.3d 627, 640 (Tex. App.—Houston [14th Dist.] 1999, no pet.).

And even if appellant had challenged every finding, the result would still be the same because appellant pleaded true to the allegation that he failed to abstain from drugs, and this plea of true is sufficient by itself to support the trial court's decision. *See Moses v. State*, 590 S.W.2d 469, 470 (Tex. Crim. App. [Panel Op.] 1979); *Moore v. State*, 11 S.W.3d 495, 498 n.1 (Tex. App.—Houston [14th Dist.] 2000, no pet.). The trial court also made a finding that the drug allegation was true, and the evidence outside of appellant's plea supported that finding; a drug test revealed that appellant had amphetamines and methamphetamines in his system, and appellant admitted to his supervision officer that he had taken those drugs illegally.

Appellant concedes that his plea of true to the drug allegation “was sufficient alone to adjudicate his guilt,” but he argues that his sentence may have been lighter had the trial court not made an erroneous finding that the costs and fees allegations were true. This argument is mistaken for at least two reasons. First, the trial court assessed appellant’s punishment based on his commission of the charged offenses, not on his breaking the terms of his community supervision. *See Buerger v. State*, 60 S.W.3d 358, 365–66 (Tex. App.—Houston [1st Dist.] 2001, pet. ref’d) (fifteen-year sentence was based on underlying drug offense, not on curfew violation). Second, the trial court is afforded wide discretion when assessing punishment, and as long as the sentence assessed is within the statutory range for the offense (as the two sentences are here), a reviewing court generally has no power to disturb it on appeal. *See Von Schounmacher v. State*, 5 S.W.3d 221, 222–23 (Tex. Crim. App. 1999) (per curiam).

Without reaching the merits of his costs and fees challenge, we conclude that the evidence is legally sufficient to support the trial court’s decision to revoke appellant’s community supervision and adjudicate his guilt.

CONCLUSION

The trial court’s judgments are affirmed.

/s/ Tracy Christopher
Justice

Panel consists of Justices Christopher, Brown, and Wise.
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