

**Affirmed and Memorandum Opinion filed April 19, 2018.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-16-00710-CR**

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**CHRISTIAN SENDEJAS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 122nd District Court  
Galveston County, Texas  
Trial Court Cause No. 14CR0535**

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

In this appeal, appellant Christian Sendejas challenges the sufficiency of the evidence supporting the trial court's findings that he violated his community supervision. Appellant pled guilty to assault of a family or house member by impeding breath or circulation and was placed on community supervision. The State later moved to revoke appellant's community supervision and adjudicate his guilt. The trial court heard evidence regarding the motion and found that appellant violated

nine conditions of his community supervision. The court adjudicated appellant guilty of the charged offense and sentenced him to three years' confinement in the Texas Department of Criminal Justice. We affirm, concluding that a preponderance of the evidence supports the trial court's finding that appellant violated at least one condition of his community supervision.

### **BACKGROUND**

In June 2014, appellant pled guilty to assault by strangulation of his then-girlfriend, Camille Waters. In accordance with the terms of appellant's plea bargain with the State, the trial court deferred adjudication of appellant's guilt and placed him on community supervision for three years with various conditions. As relevant here, appellant was required to: (1) commit no offense against the laws of Texas, the United States, or any government entity; (2) avoid injurious and vicious habits; (3) report in person to the assigned Supervision Officer; (4) abstain from the use or possession of drugs, except those that are prescribed; (5) pay community supervision fees, court services fees and costs, attorneys' fees, and drug/alcohol test fees; and (6) perform 160 hours of community supervision at the rate of 16 hours per month.

Less than a year later, appellant was arrested for assaulting Waters. The State filed a motion to adjudicate appellant's guilt and revoke community supervision, which it later amended. The State alleged in its amended motion that appellant had violated the conditions of his community supervision by: (1) committing the offense of assault causing bodily injury, family violence enhanced, on April 13, 2015, and the offense of criminal trespass by remaining on the property of Waters; (2) failing to avoid injurious and vicious habits; (3) failing to report in person to his Supervision Officer; (4) admitting in writing to using marijuana on June 16, 2014; (5) failing to pay various fees; and (6) failing to perform community supervision as approved by the court.

The trial court held four hearings on the amended motion. During the hearings, the trial court heard testimony, admitted exhibits, and ordered additional drug and mental health testing of appellant. The trial court heard from Waters regarding a physical altercation between Waters and appellant on April 13, 2015. The trial court also heard testimony from appellant's Supervision Officer, Avis York, regarding appellant's failure to report for scheduled meetings in June, July, August, September, October November, and December 2015, and in January and February 2016. York further testified that appellant had completed only 30 hours of his community supervision and that he had a delinquent balance of \$870 in fees and costs.

Appellant denied the assault on Waters and stated that he did not report for the meetings because he was scared he would be arrested for assaulting Waters. Appellant also offered evidence that his lack of transportation made it difficult to get to some of the approved community service sites and that, though he was able to find some work, the work was seasonal and sometimes difficult to maintain. The State and appellant presented conflicting evidence regarding appellant's use of marijuana during the time he was on community supervision. Appellant also testified that he suffered the traumatic loss of his brother, which made it harder to cope and "do anything in society."

Toward the end of the third revocation hearing, the trial court reminded appellant that it would be in his interest to abide by the terms of his community supervision, including completion of community service and finding lawful employment. The State presented evidence that, after this reminder, appellant failed to report for another meeting, was not current on fees, and failed to complete community service hours. After taking the amended motion under advisement, the trial court issued its ruling, finding that appellant violated the terms of his

community supervision. Specifically, the trial court found the following allegations had been proven true: (1) commission of assault causing bodily injury family violence enhanced; (2) engaging in injurious and vicious habits; (3) failing to report to his Supervision Officer; (4) using marijuana; (5) failing to pay various fees; and (6) failing to perform community service as approved by the court. The court adjudicated appellant guilty and sentenced him to three years confinement in the Texas Department of Criminal Justice. Appellant timely appealed.

### ANALYSIS

Appellant raises four issues on appeal. Appellant contends the evidence is insufficient to support findings that he: (1) failed to pay community supervision fees, court costs, attorney's fees, and drug/alcohol fees; (2) failed to perform the required amount of community service; (3) failed to abstain from the use or possession of non-prescribed drugs; and (4) failed to report to his supervision officer. Appellant does not set forth any issue or argument challenging the finding that he committed the offense of assault causing bodily injury, family violence enhanced, while on community supervision. Because we conclude the preponderance of the evidence supports this unchallenged ground for revocation of appellant's community supervision, we affirm the trial court's judgment.

#### **I. Standard of review and applicable law**

We review a trial court's decision to revoke community supervision for an abuse of discretion. *See Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013); *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). The trial court has discretion to revoke community supervision when a preponderance of the evidence supports at least one of the State's alleged violations of the conditions of community supervision. *Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012). This standard is met when the greater weight of the credible evidence creates

a reasonable belief that the defendant has violated a condition of his community supervision. *See Rickels*, 202 S.W.3d at 764. We view the evidence in the light most favorable to the trial court’s order. *Moore v. State*, 11 S.W.3d 495, 498 (Tex. App.—Houston [14th Dist.] 2000, no pet.). The trial court is the sole trier of fact and determines the credibility of witnesses and the weight to be given to their testimony in revocation hearings. *Id.* The trial court abuses its discretion in issuing a revocation order when the State fails to meet its burden of proving by a preponderance of the evidence that appellant violated a condition. *Cardona v. State*, 665 S.W.2d 492, 493-94 (Tex. Crim. App. 1984).

Proof of a single violation is sufficient to support revocation of community supervision; therefore, we need only consider whether there is sufficient evidence of any one violation. *Marcum v. State*, 983 S.W.2d 762, 766-67 (Tex. App.—Houston [14th Dist.] 1998, pet. ref’d); *see also Garcia v. State*, 387 S.W.3d 20, 26 (Tex. Crim. App. 2012) (“[P]roof of a single violation will support revocation.”). To prevail in his appeal asserting the trial court abused its discretion, the appellant must challenge all of the findings that support the revocation order. *See Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980); *Gobell v. State*, 528 S.W.2d 223, 224 (Tex. Crim. App. 1975) (“Since the other finding upon which probation was revoked is unchallenged, appellant’s contention, even if correct, would not show an abuse of discretion.”); *Joseph v. State*, 3 S.W.3d 627, 640 (Tex. App.—Houston [14th Dist.] 1999, no pet.).

## **II. There is sufficient evidence that appellant committed another offense while on community supervision.**

In his first issue, appellant argues that the trial court abused its discretion by finding that he had violated the terms of his community supervision by failing to pay community supervision fees, court costs, attorney’s fees, and drug and alcohol fees.

Appellant fails to address the trial court's finding that he committed an offense against the laws of the State of Texas. The State alleged in its amended motion that appellant, on or about April 13, 2015, committed the offense of assault causing bodily injury, family violence enhanced. The trial court found that the State met its burden of proving true this ground for revocation.

In *Moore v. State*, the trial court found that the appellant had violated the terms of his probation by committing the offense of aggravated sexual abuse and escape. 605 S.W.2d at 926. The appellant failed to challenge or raise any contentions concerning the finding that he committed the offense of escape, and the court's review did not reveal any error. *Id.* As a result, the Court of Criminal Appeals held that it did not need to address appellant's other contentions because "one sufficient ground for revocation will support the court's order to revoke probation." *Id.*

In this case, the State presented testimony from Waters, appellant's former girlfriend, at the hearing on the motion to revoke. Waters testified that on April 13, 2015, she and appellant were sitting on the couch in a home that she rented. Waters explained that appellant lived in the home with her on and off. According to Waters, the two began arguing and appellant then yanked her off the couch, pushed her, shoved her, called her names, and bit her. The argument was intense, and Waters fought back. After about an hour of pushing, shoving, hitting, and fighting, Waters left the house, went to a friend's home, and called the police. The trial court admitted into evidence pictures Waters took soon after the altercation with appellant. The pictures show that Waters has scratches, bruises, and what appears to be a bite mark. This evidence shows that appellant committed an assault causing bodily injury to his girlfriend, with whom he was living, in violation of the laws of the State. *See* Tex. Penal Code Ann. § 22.01(a)(1), (b)(2) (a person commits assault by intentionally, knowingly, or recklessly causing bodily injury to another, including a person's

spouse, enhanced if offense committed against a person in defendant's household as defined in Family Code § 71.005).

The trial court also had before it conflicting testimony from appellant regarding who started the physical altercation and whether appellant hit Waters. The court heard evidence of animus towards appellant on the part of Waters in the form of text messages containing explicit language and a threat to make sure appellant rots in jail. The trial court, as the finder of fact, is the sole judge of the credibility of the witnesses and the weight to be given their testimony. *Hacker*, 389 S.W.3d at 865; *see also Moore*, 11 S.W.3d at 498. Given the conflicting testimony, we cannot say it abused its discretion in finding that appellant committed the alleged offense.

Because even one unchallenged ground will support a trial court's decision to revoke community supervision, we hold that appellant failed to show the trial court abused its discretion. *See Garcia*, 387 S.W.3d at 26 (proof of single violation supports revocation). We overrule appellant's first issue and need not address his remaining issues because this unchallenged ground supports the trial court's judgment. *See Moore*, 605 S.W.2d at 926; *Gobell*, 528 S.W.2d at 224 (appellant could not show abuse of discretion on other grounds, even if correct, when appellant left one ground supporting revocation unchallenged); *see also Pleasant v. State*, No. 01-14-00586-CR, 2015 WL 2393393, at \*3 (Tex. App.—Houston [1st Dist.] May 19, 2015, no pet.) (mem. op., not designated for publication) (holding unchallenged ground supported revocation and court thus need not address remaining issue).

## CONCLUSION

The trial court did not abuse its discretion in adjudicating appellant's guilt and revoking his community supervision. We overrule appellant's first issue and affirm the trial court's judgment.

/s/ J. Brett Busby  
Justice

Panel consists of Justices Jamison, Busby, and Donovan.  
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