



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00186-CR

Anthony **CORONADO**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 187th Judicial District Court, Bexar County, Texas
Trial Court No. 2015CR7902W
Honorable Steve Hilbig, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Marialyn Barnard, Justice
Rebeca C. Martinez, Justice
Irene Rios, Justice

Delivered and Filed: October 18, 2017

AFFIRMED

Anthony Coronado appeals the revocation of his community supervision, arguing the evidence was insufficient to support the court's finding that he violated the terms of his community supervision. We affirm the trial court's judgment.

BACKGROUND

Coronado was charged with the offense of evading arrest with a vehicle, a felony of the third degree. TEX. PENAL CODE ANN. § 38.04 (West 2016). Coronado pled no contest and was sentenced to ten years' imprisonment and assessed a \$2,000 fine. The trial court suspended

Coronado's sentence of confinement and placed him on community supervision for a term of five years. The State subsequently filed a motion to revoke Coronado's community supervision based on allegations that he violated the following conditions: Condition No. 1 by committing a new offense; Condition No. 5 by failing to report to his supervision officer for the months of November and December 2016; Condition No. 9 by failing to report a change of address to his supervision officer; Condition No. 10A by failing to pay sufficient installments toward his administrative supervisory fees; Condition No. 10C by failing to pay sufficient installments toward his court costs and \$2,000 fine; and Condition No. 20 by failing to complete the required hours of community service restitution. Coronado pled "not true" to each alleged violation. After an evidentiary hearing, the trial court found the alleged violations of Condition Nos. 5 and 9 to be "true," and revoked Coronado's community supervision. The trial court sentenced Coronado to ten years' confinement in the Texas Department of Criminal Justice, Institutional Division, with credit for time served, and a fine of \$2,000, with credit for any amount previously paid. Coronado timely appealed.

ANALYSIS

On appeal, Coronado challenges the sufficiency of the evidence to support the trial court's findings that he violated Condition Nos. 5 and 9 of his community supervision by failing to report to his supervision officer for two months and by failing to report a change of address to his supervision officer. In a proceeding to revoke community supervision, the State has the burden to prove the defendant violated a term of his community supervision by a preponderance of the evidence. *Hacker v. State*, 389 S.W.3d 860, 864-65 (Tex. Crim. App. 2013); *Rickels v. State*, 202 S.W.3d 759, 763-64 (Tex. Crim. App. 2006); *Kaylor v. State*, 9 S.W.3d 205, 206 (Tex. App.—San Antonio 1999, no pet.). The State meets its burden when the greater weight of the evidence creates a reasonable belief that the defendant committed the violation alleged in the State's motion

to revoke. *Rickels*, 202 S.W.3d at 764; *Scamardo v. State*, 517 S.W.2d 293, 298 (Tex. Crim. App. 1974); *Torres v. State*, 103 S.W.3d 623, 625 (Tex. App.—San Antonio 2003, no pet.). In reviewing the sufficiency of the evidence, we view the evidence in the light most favorable to the trial court’s finding and defer to the trial court as the sole fact finder and judge of the witnesses’ credibility. *Jones v. State*, 589 S.W.2d 419, 421 (Tex. Crim. App. 1979); *Torres*, 103 S.W.3d at 625. Our review of an order revoking community supervision is limited to determining whether the trial court abused its discretion. *Rickels*, 202 S.W.3d at 763 (citing *Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984)).

We begin by addressing the trial court’s finding that Coronado violated Condition No. 5, which required him to “report to the Supervision Officer as directed by the Court/Supervision Officer” At the revocation hearing, Martha Reyna, Coronado’s supervision officer, testified that Coronado had an appointment to report in person at her office on November 14, 2016. Coronado called Reyna on November 14, 2016 and expressed that he was unable to make the appointment. Reyna testified that she agreed to reschedule Coronado’s appointment to November 15, 2016. On that day, Coronado again called Reyna and told her he was unable to come to the appointment because he had no transportation. Reyna told Coronado that she planned to drug test him and would not reschedule the appointment. Coronado did not appear at Reyna’s office that day. After the missed appointment, Reyna attempted to contact Coronado by phone but was unsuccessful because the phone number was disconnected. On November 17, 2016, Reyna sent a field team to check on Coronado at his last known address, but the team was told by a woman named “Jessica” that Coronado no longer lived at that address and she did not know another address for him. Coronado never reported in person for the month of November. Reyna testified that she attempted to contact Coronado to schedule an appointment for December, but the phone number she had was not in service. Coronado did not report to the probation office in December.

Coronado argues the evidence is insufficient to establish a violation of Condition No. 5 because he made contact with his supervision officer and presented a valid reason for failing to report on November 15, 2016—lack of transportation. Failing to report to a scheduled appointment with a supervision officer as required, however, is generally not excused by lack of transportation. *See Valdez v. State*, 508 S.W.2d 842, 844 (Tex. Crim. App. 1973) (holding that car failure in and of itself does not excuse a failure to report); *Waggoner v. State*, No. 11-07-00335-CR, 2009 WL 1800617, at *2 (Tex. App.—Eastland June 25, 2009, no pet.) (mem. op., not designated for publication) (holding that appellant’s transportation troubles do not excuse his failure to report absent evidence that there was no alternative transportation). Further, there is no evidence that Coronado attempted to contact Reyna after he missed the November 15, 2016 appointment, or made any attempt to report in person on a subsequent day in November. *See Hurd v. State*, 483 S.W.2d 824, 824-25 (Tex. Crim. App. 1972) (holding that hospitalization is not an excuse for failing to report when the defendant had an opportunity to contact his probation officer upon release and did not). It is not an abuse of discretion for the trial court to revoke probation where the probationer failed, without a valid reason, to report to his supervision officer. *Hurd*, 483 S.W.2d at 825.

Coronado also contends that Condition No. 5 does not specify that he had to report in person to his supervision officer. Condition No. 5 of the terms and conditions of Coronado’s community supervision states that he must “report to the Supervision Officer as directed by the Court/Supervision Officer.” Since the evidence showed that Reyna directed Coronado to report in person during the month of November, he was required to report to her in person. Further, page four of the terms and conditions of Coronado’s community supervision states that by signing the document, Coronado acknowledges that he “Must Report In Person Whether Or Not [I] Have The

Money For Fees.” Thus, Coronado had notice of his obligation to report in person and agreed to it by signing the terms and conditions document.

With respect to the month of December, Coronado relies on Reyna’s testimony that she was unable to reach Coronado to schedule a December appointment, and argues he was never told to report in December; therefore, he could not violate a condition by failing to report. This argument is belied by the above-quoted acknowledgment by Coronado of his obligation to report in person regardless of his ability to pay the fees. In addition, as Coronado testified, he had previously been on probation, knew what was expected of him, and knew that he was required to report each month. As the fact finder at the revocation hearing, the trial court was the sole judge of the credibility of the witnesses and the weight to be given to their testimony; therefore, the court was free to believe or disbelieve all or part of any witness’s testimony in resolving conflicts in the evidence. *See Torres*, 103 S.W.3d at 625 (citing *Jones*, 589 S.W.2d at 421). As the trial court noted, Coronado was previously on probation and signed the conditions of his current probation, thereby acknowledging the obligation to report under Condition No. 5. The evidence is undisputed that Coronado failed to report to Reyna for his scheduled appointment in November and did not report on any other date in November or in December. We therefore conclude there is sufficient evidence to prove that Coronado violated Condition No. 5.

Because only one violation is required to support a revocation of community supervision, we need not address Coronado’s arguments concerning the other violation found by the trial court. *See Garcia v. State*, 387 S.W.3d 20, 26 (Tex. Crim. App. 2012); *Smith v. State*, 286 S.W.3d 333, 342 (Tex. Crim. App. 2009).

Based on the evidence in the record before us and the applicable standard of review, we conclude the trial court did not abuse its discretion in revoking Coronado’s community supervision

based on a finding that he violated Condition No. 5 by not reporting to his supervision officer in November and December 2016. Accordingly, we affirm the trial court's judgment.

Rebeca C. Martinez, Justice

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