



Fourth Court of Appeals San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00268-CR

Andy **BARAJAZ**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 187th Judicial District Court, Bexar County, Texas
Trial Court No. 2015CR4718
Honorable Joey Contreras, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: March 6, 2019

AFFIRMED

Andy Barajaz pled nolo contendere to the offense of deadly conduct – firearm. The trial court deferred a finding of guilt and placed Barajaz on community supervision for five years. Subsequently, the State filed a “Motion to Enter Adjudication of Guilt and Revoke Community Supervision,” asserting Barajaz violated eight conditions of his community supervision. At the hearing on the State’s motion to revoke, Barajaz pled “not true” to violating the terms of his probation. At the conclusion of the hearing, which included testimony from three witnesses, the trial court found the violations as set out in the State’s motion to be true. The trial court granted

the State's motion, adjudicated Barajaz guilty, and sentenced him to ten years of confinement in the Texas Department of Criminal Justice—Institutional Division. On appeal, Barajaz contends the trial court erred in failing to admonish him, at the revocation hearing, "as to the consequences of a finding that one or more of the allegations was true." We affirm the trial court's judgment.

Standard of Review

We review a trial court's decision to proceed to an adjudication of guilt and revoke deferred adjudication community supervision for an abuse of discretion. *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006); *Reasor v. State*, 281 S.W.3d 129, 131 (Tex. App.—San Antonio 2008, pet. ref'd). A trial court abuses its discretion if its decision is so arbitrary it is outside the zone of reasonable disagreement or if it acts without reference to guiding rules and principles of law. *Hernandez v. State*, 387 S.W.3d 881, 888 (Tex. App.—San Antonio 2012, no pet.).

Discussion

Barajaz contends the trial court erred in failing to admonish him at the revocation hearing as to the consequences of a finding that one or more of the allegations was true. Barajaz cites no case law in support of his contention; instead, he relies on non-revocation cases generally standing for the proposition that a guilty plea must be made with sufficient awareness of the consequences. *See, e.g., Ex parte Palmberg*, 491 S.W.3d 804, 807 (Tex. Crim. App. 2016); *Ex parte Barnaby*, 475 S.W.3d 316, 322 (Tex. Crim. App. 2015). Article 26.13(a) of the Code of Criminal Procedure provides that the trial court must warn the defendant of the full consequences of his plea before accepting a plea of guilty or nolo contendere. TEX. CODE CRIM. PROC. ANN. art. 26.13(a). The Court of Criminal Appeals has held, however, that in the context of revocation proceedings, the trial court is not required to admonish the defendant pursuant to article 26.13. *Gutierrez v. State*, 108 S.W.3d 304, 309-10 (Tex. Crim. App. 2003); *Lanum v. State*, 952 S.W.2d 36, 39 (Tex. App.—San Antonio 1997, no pet.). Accordingly, we hold the trial court did not err in failing to admonish

Barajaz as to the consequences of a finding that one or more of the allegations was true. We therefore overrule Barajaz's sole issue on appeal and affirm the judgment of the trial court.

Rebeca C. Martinez, Justice

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