



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-22-00220-CR

Sammy VILLA,
Appellant

v.

The STATE of Texas,
Appellee

From the 187th Judicial District Court, Bexar County, Texas
Trial Court No. 2020CR1963
Honorable Stephanie R. Boyd, Judge Presiding

Opinion by: Rebeca C. Martinez, Chief Justice

Sitting: Rebeca C. Martinez, Chief Justice
Irene Rios, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: October 26, 2022

AFFIRMED

Appellant Sammy Villa appeals from the trial court's judgment adjudicating him guilty and sentencing him to confinement for 15 years. On appeal, Villa contends in two issues that his conviction should be reversed because the trial court erred by denying his motion for continuance and because the State failed to comply with article 39.14 of the Texas Code of Criminal Procedure. We affirm the trial court's judgment.

BACKGROUND

Villa pled *nolo contendere* to the second degree felony offense of aggravated assault with a deadly weapon. See TEX. PENAL CODE ANN. § 22.02(a)(2). On May 5, 2022, the trial court ordered that adjudication of guilt be deferred, and it placed Villa on community supervision for six years. On October 14, 2021, the State filed a motion, seeking an adjudication of guilt and the revocation of Villa's community supervision. The State alleged three violations of the conditions of Villa's community supervision: that Villa violated Condition No. 1 by committing the offense of aggravated assault with a deadly weapon; that Villa violated Condition No. 5 by failing to report to his community supervision officer for the month of September 2021; and that Villa violated Condition No. 26 by committing a new offense. In April 2022, the trial court held a revocation hearing, at which Villa pled "true" to violating Condition No. 5 and "not true" to violating Conditions Nos. 1 and 26.

The trial court heard testimony from several witness at the revocation hearing regarding allegations that Villa assaulted a coworker with a hammer on a construction jobsite. The coworker testified that two eyewitnesses were present during the incident and that he had told the prosecutor or someone at the district attorney's office about these eyewitnesses. Villa's counsel interrupted the testimony and represented to the trial court that the coworker's testimony was the first time that counsel had heard eyewitnesses were allegedly present. Counsel asked for the prosecutor's notes regarding the alleged eyewitnesses and a continuance to investigate. The trial court denied Villa's counsel's oral motion for a continuance. Testimony resumed, and Villa's counsel again asked for the prosecutor's notes upon the conclusion of the coworker's testimony. The State's attorney responded there were no notes from any member of the prosecution team.

Villa then testified. He confirmed that he pled "true" to a violation of a condition of his community supervision based on his failure to report to his supervision officer for the month of

September 2021. He also testified regarding the alleged assault at the jobsite and gave a different version of events than the coworker.

After the State and Villa rested, the trial court found that Villa had violated Conditions Nos. 1, 5, and 26 of his community supervision. The trial court then adjudicated Villa guilty of the assault charge, to which he had earlier pled *nolo contendere*, and sentenced Villa to 15 years' incarceration. Villa timely appealed.

DISCUSSION

We consider Villa's two issues together and overrule them based on the unchallenged finding that Villa violated Condition No. 5 of his community supervision. Villa contends in his first issue that the trial court erred by denying his oral motion for a continuance. In his second issue he contends the State failed to comply with article 39.14 of the Texas Code of Criminal Procedure.

We review a trial court's ruling on a motion for a continuance for abuse of discretion. *Gallo v. State*, 239 S.W.3d 757, 764 (Tex. Crim. App. 2007). To establish an abuse of discretion, a defendant must show, among other things, that he was prejudiced by the denial of his motion for continuance. *See Janecka v. State*, 937 S.W.2d 456, 468 (Tex. Crim. App. 1996).

Article 39.14 concerns the availability and scope of discovery that must be produced by the State to a defendant. *See* TEX. CODE CRIM. PROC. ANN. art. 39.14; *Watkins v. State*, 619 S.W.3d 265, 277 (Tex. Crim. App. 2021); *Williamson v. State*, No. 04-20-00268-CR, 2021 WL 4976326, at *3 (Tex. App.—San Antonio Oct. 27, 2021, pet. ref'd) (mem. op., not designated for publication). Reviewing courts conduct a harm analysis before reversing for an article 39.14 violation. *See* TEX. R. APP. P. 44.2(b); *Watkins*, 619 S.W.3d at 269; *Hallman v. State*, 647 S.W.3d 805, 818 n.16, 825 n.27 (Tex. App.—Fort Worth 2022, pet. filed); *Williamson*, 2021 WL 4976326, at *3. We disregard an article 39.14 violation that does not affect a defendant's substantial rights.

TEX. R. APP. P. 44.2(b); *Williamson*, 2021 WL 4976326, at *3. To determine whether an error implicates a substantial right in a nonjury proceeding, we consider “whether a party had a right to that which the error denied.” *Johnson v. State*, 72 S.W.3d 346, 348 (Tex. Crim. App. 2002); *Sopko v. State*, 637 S.W.3d 252, 257 (Tex. App.—Fort Worth 2021, no pet.). We consider the entire record on appeal, and if it appears that the error did not influence the result or had only a slight effect, we do not overturn the criminal conviction. *See Sopko*, 637 S.W.3d at 257; *Smith v. State*, 290 S.W.3d 368, 375 (Tex. App.—Houston [14th Dist.] 2009, pet. ref’d).

Villa cannot show that he was prejudiced by the denial of his motion for continuance or that any purported violation of article 39.14 affected his substantial rights because Villa pled “true” to violating a condition of his community supervision and proof of a single violation of a condition of community supervision supports revocation. *See Garcia v. State*, 387 S.W.3d 20, 26 (Tex. Crim. App. 2012); *Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980); *Cole v. State*, 578 S.W.2d 127, 128 (Tex. Crim. App. 1979); *see also Eller v. State*, No. 04-17-00780-CR, 2019 WL 1547498, at *2–*3 (Tex. App.—San Antonio Apr. 10, 2019, pet. ref’d) (mem. op., not designated for publication). While Villa contends that a violation of Condition No. 5, which required him to report to his supervision officer, is a “technical violation,” proof of even a single “technical violation” is sufficient for revocation. *See Nurridin v. State*, 154 S.W.3d 920, 924 (Tex. App.—Dallas 2005, no pet.) (“Courts may revoke community supervision for a violation of any condition, including violations of any single ‘technical’ condition.”); *see also Eller*, 2019 WL 1547498, at *2; *Ramon v. State*, No. 04-15-00450-CR, 2016 WL 2753884, at *2 n.2 (Tex. App.—San Antonio May 11, 2016, no pet.) (mem. op., not designated for publication) (affirming revocation on ground that was not a primary focus of revocation hearing).

Because this single, unchallenged ground regarding Villa’s failure to report to his supervision officer supported revocation, Villa has not shown prejudice from the trial court’s

failure to grant a continuance. *Cf. Horn v. State*, No. 01-17-00965-CR, 2018 WL 5259961, at *5 (Tex. App.—Houston [1st Dist.] Oct. 23, 2018, no pet.) (mem. op., not designated for publication) (holding purported error in denying motion for continuance was harmless because unchallenged violation supported revocation of community supervision). Nor has Villa established that any purported violation of article 39.14 influenced the result of the revocation proceedings because revocation was supported by an unchallenged ground. *Cf. Freeman v. State*, 554 S.W.3d 816, 818 (Tex. App.—Waco 2018, no pet.) (not addressing purported violation of article 39.14 because revocation of community supervision was supported by unchallenged violation). In short, the record does not show prejudice or harm because Villa pled “true” to a violation of a condition of his community supervision. *See Garcia*, 387 S.W.3d at 26; *Cole v. State*, 578 S.W.2d at 128; *cf. Eller*, 2019 WL 1547498, at *3 (“When a trial court revokes community supervision the sentence imposed is based on the gravity of the underlying offense of conviction, not the severity of the probation violation.”).

CONCLUSION

We affirm the trial court’s judgment.

Rebeca C. Martinez, Chief Justice

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