

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00381-CR

ULYSSES DEAUDRE BENTON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 09-06393

MEMORANDUM OPINION

Pursuant to a plea bargain, appellant Ulysses Deaudre Benton pleaded guilty to burglary of a building. The trial court deferred adjudication of guilt and placed Benton on unadjudicated community supervision for three years. The State filed a motion to revoke the community supervision. Finding that Benton violated the community supervision order, the trial court adjudicated Benton's guilt and sentenced him to two years in a state jail facility. Benton filed this appeal.

In issue one, Benton argues there was insufficient evidence to revoke his community supervision. We review a trial court's decision to revoke a defendant's

community supervision under an abuse of discretion standard. *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006). The State's burden of proof is by a preponderance of the evidence; proof of a single violation of probation is sufficient to support revocation. *Id.* at 763-64; *see Smith v. State*, 286 S.W.3d 333, 342 (Tex.Crim. App. 2009); *see also Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980). Benton pleaded true to the allegation that he failed to report to his probation officer from December 2009 through June 2010. His plea of true to this one ground is sufficient evidence to support the trial court's revocation of his unadjudicated community supervision. Consequently, we need not consider his arguments concerning the alleged violations to which he pleaded "not true." *Moore*, 605 S.W.2d at 926. We overrule issue one.

In issue two, Benton argues the trial court abused its discretion in assessing punishment without proper evidence relevant to punishment. He contends that the trial court, after deciding to revoke the unadjudicated community supervision, did not consider any other evidence before imposing the sentence. Benton asserts that an updated PSI report should have been prepared for the revocation proceeding. He testified that a PSI report had been prepared in his case, apparently around the time of his original plea hearing. Article 42.12, section 9, does not require that a PSI report be updated for a revocation proceeding. *See Tex. Code Crim. Proc. Ann. art. 42.12, § 9* (West Supp. 2010). Article 37.07, section 3(d), provides that "[w]hen the judge assesses the

punishment, he may order an investigative report as contemplated in Section 9 of Article 42.12” Tex. Code Crim. Proc. Ann. art. 37.07, § 3(d) (West Supp. 2010). It does not appear that Benton requested a report. The trial court heard the testimony of Benton and his probation officer during the revocation hearing, and was free to consider that evidence in assessment of punishment. We overrule issue two.

The conviction is affirmed.

AFFIRMED.

DAVID GAULTNEY
Justice

Submitted on May 31, 2011
Opinion Delivered September 28, 2011
Do Not Publish

Before Gaultney, Kreger, and Horton, JJ.