

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00171-CR

MARKELL S. HAWKINS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 09-07900

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, appellant Markell S. Hawkins pleaded guilty to burglary of a habitation. The trial court found the evidence sufficient to find Hawkins guilty, but deferred further proceedings, placed Hawkins on community supervision for five years, and assessed a fine of \$500. The State subsequently filed a motion to revoke Hawkins's unadjudicated community supervision. Hawkins pleaded "true" to five violations of the conditions of his community supervision. The trial court found that Hawkins violated the conditions of his community supervision, found Hawkins guilty of burglary of a habitation, and assessed punishment at twelve years of confinement.

In his sole appellate issue, Hawkins contends he was denied a complete record on appeal because, despite his designation of the record, in which he requested copies of the reporter's record of all proceedings, he was not provided with a reporter's record of the original plea proceeding. Hawkins argues that he therefore "cannot adequately address potential issues to be raised on direct appeal[,]” such as whether the trial court predetermined the sentence or whether the trial court permitted the State to proceed on a lesser charge, thereby affecting the punishment range.

A defendant placed on deferred adjudication community supervision may not wait until revocation to appeal issues relating to his original plea of guilty. *See Manuel v. State*, 994 S.W.2d 658, 661-62 (Tex. Crim. App. 1999). Therefore, the reporter's record from the original proceeding is not necessary to the resolution of this appeal, since Hawkins cannot now appeal any issues relating to that proceeding. *See Daniels v. State*, 30 S.W.3d 407, 408 (Tex. Crim. App. 2000) (In an appeal involving revocation of deferred adjudication community supervision, when reporter's record from the original deferred adjudication proceeding had been lost, the Court determined that said record was unnecessary to the appeal because the appellant "cannot now appeal any issues relating to the original deferred adjudication proceeding.”). Accordingly, we overrule Hawkins's sole issue and affirm the trial court's judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on August 18, 2011
Opinion Delivered August 24, 2011
Do Not Publish

Before McKeithen, C.J., Gaultney and Kreger, JJ.