In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-11-00179-CR

CHRIS AARON ARNOLD, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 253rd District Court
Liberty County, Texas
Trial Cause No. CR25201

MEMORANDUM OPINION

Chris Aaron Arnold pleaded guilty under a plea bargain to aggravated sexual assault of a child. The trial court deferred adjudication of guilt and placed Arnold on unadjudicated community supervision. The State filed a motion to revoke. The trial court found Arnold violated four community-supervision conditions, revoked Arnold's community supervision, adjudicated him guilty of aggravated sexual assault, and sentenced him to sixty years in prison. Arnold challenges the revocation order.

The review of an order revoking community supervision is under an abuse-of-discretion standard. *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). In a revocation hearing, the State must prove by a preponderance of the evidence that the defendant violated the terms and conditions of community supervision. *See id.*, *Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993). The trial judge is the sole judge of the credibility of the witnesses and the weight to be given their testimony. *Garrett v. State*, 619 S.W.2d 172, 174 (Tex. Crim. App. 1981); *Cantu v. State*, 339 S.W.3d 688, 691 (Tex. App.—Fort Worth 2011, no pet.).

One of the community supervision terms stated that defendant "shall not have any contact with the victim [] or any minor. A minor is defined as anyone under 17 years old. . . ." In its motion to revoke, the State alleged that during October and November 2007 Arnold had contact with the minor children of C.K. and the minor children of K.F.[1] The community supervision order defined "contact" to include the following: actual physical touching, "[t]aking any action which furthers a relationship with a minor[,]" "[v]erbal communication such as talking[,]" and "being in the proximity of a minor where communication could be established with a minor." Three witnesses testified regarding Arnold's contact with minor children.

S.W. testified that her grandson's mother, C.K., brought Arnold to S.W.'s house in November 2007. Arnold rode with C.K. and her two minor children. S.W. recalled that he played with the children and carried them to the car. She testified Arnold interacted with

[1] The record of the revocation hearing shows K.F.'s first name begins with a "K" while the clerk's record has it beginning with a "C"; regardless of the spelling, the name refers to the same person.

the kids: "playing, talking, speaking to them." Nothing in his conduct caused her any concern.

J.W., husband of S.W., testified that C.K. brought Arnold to their home. Arnold rode in the car with C.K. and her minor children. Arnold carried the kids and put them in the car seats. J.W. testified he believed that Arnold played with the children. Although J.W. had some uncertainty about the date, he indicated that the visit occurred in the time frame of November 2007. J.W. also indicated there was nothing that alarmed him about Arnold's conduct.

K.F. testified Arnold was dating her sister C.K. He came to K.F.'s parents' home with C.K. In the car with him were C.K. and K.F.'s niece and nephew. K.F. testified Arnold came into the house and was in close proximity to the children; he spoke to the children. There were other minor children in the home as well, including K.F.'s four children who were under the age of 17. The two or three visits by Arnold were around October and November 2007. K.F. indicated she did not see Arnold do anything inappropriate around the children.

Arnold testified at the revocation hearing. He denied he carried C.K.'s children in and out of the residence, and indicated he remained in the car the time J.W. saw him there. Arnold testified he dropped C.K. off at K.F.'s parents' home, but he never went in the home.

The evidence was conflicting. The trial judge was free to believe the testimony of S.W., J.W., and K.F, and not that of Arnold. Under a preponderance-of-the-evidence standard, the evidence is sufficient to establish Arnold's violation of the terms of the community supervision order. We need not address the allegations of other violations. Proof of one violation is sufficient to support a revocation order. *See Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980); *Reasor*, 281 S.W.3d at 131.

We overrule Arnold's appellate issue and affirm the trial court's judgment.

AFFIRMED.

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DAVID GAULTNEY
Justice

Submitted on January 31, 2012
Opinion Delivered February 8, 2012

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Before Gaultney, Kreger, & Horton, JJ.