

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-11-00419-CR**

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**CHANNIN KEON ARDOIN A/K/A CHANNIN ARDOIN, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 252nd District Court  
Jefferson County, Texas  
Trial Cause No. 11-11724**

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**MEMORANDUM OPINION**

Pursuant to a plea bargain agreement, appellant Channin Keon Ardoin a/k/a Channin Ardoin pleaded guilty to assault on a public servant. The trial court found the evidence sufficient to find Ardoin guilty, but deferred further proceedings, placed Ardoin on community supervision for five years, and assessed a fine of \$500. The State subsequently filed a motion to revoke Ardoin's unadjudicated community supervision.<sup>1</sup> The sole violation alleged by the State in the motion to revoke was that Ardoin

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<sup>1</sup> The plea hearing took place on June 6, 2011. The State filed its motion to revoke on June 14, 2011, and the hearing on the motion to revoke occurred on July 26, 2011.

failed to conduct himself in a courteous and professional manner with court officers and staff, probation officers and staff, law enforcement officers, and attorneys, by providing false information to the Judge on or about the 6th day of June, 2011, by not being truthful about his employment, in violation of Condition (16) of Defendant's Deferred Adjudication order.

Ardoin pleaded "not true" to the alleged violation of the terms of his community supervision.

After conducting an evidentiary hearing, the trial court found that Ardoin violated the conditions of his community supervision, found him guilty, and assessed punishment at ten years of confinement. Ardoin then filed this appeal, in which he argues that the trial court's sentencing was constitutionally disproportionate and unreasonable, and that the trial court abused its discretion because the evidence at the revocation hearing was insufficient to support the trial court's revocation of Ardoin's community supervision. *See* U.S. CONST. amend. VIII; Tex. Const. art. I, § 13. We reverse the trial court's judgment.

In his third issue, which we address first, Ardoin argues that the trial court abused its discretion by revoking his community supervision because the evidence was legally insufficient to support the trial court's finding that he violated a condition of his community supervision. At a revocation hearing, the State has the burden to establish the alleged violations by a preponderance of the evidence. *Rickels v. State*, 202 S.W.3d 759, 763-64 (Tex. Crim. App. 2006); *Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993). The trial court is the sole trier of facts and judge of the credibility of witnesses,

and the trial court decides what weight to be given to the testimony. *Cochran v. State*, 78 S.W.3d 20, 28 (Tex. App.—Tyler 2002, no pet.). We review the trial court’s decision to revoke community supervision for an abuse of discretion. *Rickels*, 202 S.W.3d at 763. The trial court abuses its discretion only if its decision “was so clearly wrong as to lie outside that zone within which reasonable persons might disagree.” *Cantu v. State*, 842 S.W.2d 667, 682 (Tex. Crim. App. 1992). We view the evidence in the light most favorable to the trial court’s ruling. *Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984). Proof of a single violation of the terms of community supervision is sufficient to support revocation. *Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980).

At the beginning of the evidentiary hearing, the State requested that the trial court take judicial notice of what occurred at the plea hearing, and the trial court agreed to do so. The trial judge stated on the record that he recalled personally calling Ardoin’s employer during a recess in the plea hearing and learning that Ardoin had been untruthful about being employed there. The State then called Jefferson County probation officer Monica Nelson as a witness. Nelson testified that she was present at Ardoin’s plea hearing. Nelson explained that during the plea hearing, Ardoin told the trial judge that he was employed at a particular business, but when the trial judge investigated Ardoin’s claim by calling that business, the judge learned that Ardoin was not employed there. According to Nelson, after learning that Ardoin was not employed where he claimed to

be, several additional conditions, including a requirement that Ardoin serve up-front time, were added to Ardoin's community supervision. Nelson explained that Ardoin was upset about the up-front time and voiced that to her by asking a number of questions and repeatedly asking "if it was legal." Nelson testified that Ardoin was agitated, and when Ardoin had to appear before the trial judge when the additional conditions were added, Ardoin refused to sign the new order. During a colloquy with Ardoin at the revocation hearing, the trial judge stated that Ardoin was only on community supervision for a matter of minutes before the trial judge ordered the motion to revoke. In addition, Ardoin stated to the court, "I was giving [Ms. Nelson] a hard time because I didn't understand."

The record of the plea hearing reflects that Ardoin had not been placed on community supervision when the alleged violation occurred. As previously discussed, the trial judge stated during the revocation hearing that he recalled calling Ardoin's stated employer during a recess in the plea hearing and learning that Ardoin had been fired. The evidence adduced at the revocation hearing was not sufficient to support the trial court's finding that Ardoin violated the conditions of his community supervision. *See Rickels*, 202 S.W.3d at 763-64; *Cantu*, 842 S.W.2d at 682; *Moore*, 605 S.W.2d at 926; *Cochran*, 78 S.W.3d at 28. Therefore, the trial court abused its discretion by revoking Ardoin's community supervision. We sustain issue three.<sup>2</sup> Accordingly, we reverse the

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<sup>2</sup> Because issues one and two would not result in greater relief, we need not address them. *See* Tex. R. App. P. 47.1.

trial court's judgment revoking Ardoin's community supervision and remand the cause for further proceedings consistent with this opinion.

REVERSED AND REMANDED.

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STEVE McKEITHEN  
Chief Justice

Submitted on October 24, 2011  
Opinion Delivered November 9, 2011  
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Before McKeithen, C.J., Kreger and Horton, JJ.