



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-15-00249-CR

RUDY CORTINAS, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 432nd District Court
Tarrant County, Texas
Trial Court No. 1345818D, Honorable Elizabeth Berry, Presiding

January 26, 2016

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Appellant, Rudy Cortinas, appeals the trial court's decision to grant the State's "petition" to adjudicate his guilt, revoke his probation, and convict him of possessing a controlled substance. Allegedly, the trial court abused its discretion when it did so because 1) extenuating circumstances excused the defaults alleged by the State in its "petition," 2) he had already served several months in jail, and 3) he took care of a relative. We affirm.¹

¹ Because the appeal was transferred to this court from the Fort Worth Court of Appeals, we apply the latter's precedent. See TEX. R. APP. P. 41.3.

“Appellate review of the decision to adjudicate guilt is ‘in the same manner’ as review of the revocation of community supervision.” *Almaguer v. State*, No. 02-14-00259-CR, 2015 Tex. App. LEXIS 1857, at *2 (Tex. App.—Fort Worth February 26, 2015, pet. ref’d) (mem. op., not designated for publication), *quoting* TEX. CODE CRIM. PROC. ANN. art. 42.12, § 5(b) (West Supp. 2015). To prevail, the State must prove that the defendant violated a condition of community supervision as alleged in the petition. *Id.* Furthermore, “[p]roving any *one* of the alleged violations of the conditions of community supervision is sufficient to support a revocation order.” *Id.* (emphasis in original). “The State’s burden of proof in a revocation proceeding is by a preponderance of the evidence.” *Id.* That burden can be satisfied simply through a plea of true by the defendant. *Cole v. State*, 578 S.W.2d 127, 129 (Tex. Crim. App. 1979); *Speace v. State*, No. 02-14-00445-CR, 2015 Tex. App. LEXIS 7671, at *5-6 (Tex. App.—Fort Worth July 23, 2015, no pet.) (mem. op., not designated for publication) (stating that a “plea of true, standing alone, is sufficient to support the revocation of community supervision”). Finally, appellate review of an order revoking community supervision is limited to a determination of whether the trial court abused its discretion. *Almaguer*, 2015 Tex. App. LEXIS 1857, at *2.

The State sought the adjudication of appellant’s guilt because he 1) failed to report to the Community Supervision and Corrections Department of Tarrant County (CSCD) for the months of October, November and December of 2014 and 2) failed to complete the Intensive Outpatient Program as ordered. Appellant pled true to each accusation then attempted to explain why he so failed. The explanation related to an illness from which he was suffering and its long-term treatment which he was undergoing. Yet, he also testified that he could have reported to the CSCD during the

months in question. Under the principles of law mentioned in *Speace*, *Almaguer*, and *Cole*, this evidence was sufficient to permit the trial court to revoke appellant's probation, adjudicate his guilt and convict him for the charged offense.

Accordingly, the judgment of the trial court is affirmed.

Brian Quinn
Chief Justice

Do not publish.