In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-16-00096-CR

ASHLEE RAYE BARTON-RYE, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 47th District Court
Randall County, Texas
Trial Court No. 23,225-A, Honorable Ana Estevez, Presiding

September 1, 2016

MEMORANDUM OPINION

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

Ashlee Raye Barton-Rye (appellant) appeals from an order adjudicating her guilty of a state jail felony involving the possession of a controlled substance. On December 12, 2012, the trial court signed its judgment both deferring the adjudication of her guilt for that offense and placing her on probation for three years. It also modified the terms of her probation after that. One such modification occurred on September 15, 2015. Through it, the trial court ordered that appellant "submit to a drug patch for three . . . months." So too did it order that "[a]s an alternative to incarceration, the

original probationary period is extended one (1) year(s) to expire on December 07, 2016 as provided by Article 42.12, Sec. 22(c)." In January of 2016, the State moved to adjudicate appellant's guilt. The motion was granted, which act culminated in this appeal.

Before us, appellant argues that the judgment adjudicating her guilt is invalid. It is purportedly invalid because the trial court had no jurisdiction to enter it. It purportedly had no jurisdiction to enter it because the initial term of her probation (ending on December 7, 2015) expired before the State moved to adjudicate her guilt. But wait, one asks, was not that term extended to December 7, 2016, and did not the State move to adjudicate guilt about eleven months before then? Ah, answers appellant, that is irrelevant. It is so, according to her, because there appeared no "good cause" to lengthen the period of probation and such periods may only be extended for "good cause." So, the September 15, 2015, order was ineffective, she concludes. We overrule the argument and affirm the judgment.

Section 22(c) of the Texas Code of Criminal Procedure permits a trial court to extend "a period of community supervision on a showing of good cause . . . ." TEX. CODE CRIM. PROC. ANN. art. 42.12, § 22(c) (West Supp. 2016). While the phrase "good cause" is not defined by the legislature in that statute, it no doubt connotes something akin to a legitimate or substantial reason, as opposed to mere arbitrariness. *See Black's Law Dictionary* 822 (Revised 4th ed. 1968) (defining the phrase to mean "[s]ubstantial reason, one that affords a legal excuse"); *see also Webster's Third New International Dictionary* 978 (Unabridged 3rd ed. 1976) (defining "good cause" to mean

"a cause or reason sufficient in law: one that is based on equity or justice or that would motivate a reasonable man under all the circumstances").

As previously mentioned, the trial court extended the term of probation "as an alternative to incarceration." In other words, in lieu of sending appellant to jail, it opted to extend her probation. Surely appellant is not arguing that incarceration is a better alternative to supervised freedom, or maybe she is. Nonetheless, we can see where foregoing imprisonment and the effects that may have on a person is a substantial or legitimate reason for extending the period of probation.[1] So, the verbiage appearing in the September 15, 2015 order extending the period of probation actually set forth the good cause required by § 22(c) of art. 42.12 of the Code of Criminal Procedure. That, in turn, means the motion to adjudicate appellant's guilt was actually filed within the term of her probation, and the trial court had jurisdiction to act on it.

We affirm the judgment of the trial court.[2]

Brian Quinn
Chief Justice

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[1] The appellate record does not suggest that a hearing was conducted before the trial court executed its order modifying the original terms of appellant's probation in lieu of incarcerating her. So, we are left to wonder about what precipitated the modifications at issue. Nevertheless, appellant acknowledges in her brief that a hearing was unnecessary to effectuate the changes. *See Calderon v. State*, 75 S.W.3d 555, 558-59 (Tex. App.—San Antonio 2002, pet. ref'd).

[2] To the extent the State argues that we lack jurisdiction to assess the validity of the September 15, 2015, order modifying the terms of appellant's probation, our Court of Criminal Appeals has held that complaints about a modification can be raised in an appeal from a revocation if the validity of the revocation depends on the validity of the modification. *Davis v. State*, 195 S.W.3d 708, 710-11 (Tex. Crim. App. 2006). The dispute before us arguably falls within that realm.