



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

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No. 07-15-00115-CR

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**ISRAEL ZATARAIN GONZALEZ, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 235th District Court  
Cooke County, Texas  
Trial Court No. 14-00310, Honorable Janelle M. Haverkamp, Presiding

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March 10, 2017

**MEMORANDUM OPINION**

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

Appellant Israel Zatarain Gonzalez appeals from the trial court's judgment revoking his community supervision and sentencing him to imprisonment for a period of eight years. He raises six issues. We will overrule his issues and affirm the judgment of the trial court.

## Background

In June 2014, appellant was indicted for the first-degree felony offense of engaging in organized criminal activity, specifically burglary of a habitation.<sup>1</sup> Through a plea agreement with the State, appellant pled guilty and was sentenced to eight years of confinement. In accordance with the plea agreement, the trial court suspended appellant's sentence, placed him on community supervision for a period of five years and imposed a \$1500 fine. Appellant's community supervision was subject to certain terms and conditions.

The State later filed a motion to revoke appellant's community supervision, alleging appellant was arrested for criminal trespass in September 2014 and failed to report that arrest, associated with persons involved in illegal behavior, including those involved in the offense to which appellant pled guilty, failed to report to his community supervision officer as required, failed to obtain and maintain employment and provide verification of his employment, failed to complete any of the 200 required hours of community service, failed to attend any of the required services and classes and failed to pay various required fines and fees.

At the hearing on the State's motion, appellant pled "true" to six of the State's allegations and "not true" to eight. The State abandoned one of its allegations. It presented the testimony of five witnesses. Appellant also testified. The trial court found

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<sup>1</sup> See TEX. PENAL CODE ANN. § 71.02(a) (West 2014). This offense carries a punishment range of imprisonment for life or for any term not more than 99 years or less than 5 years and a fine not to exceed \$10,000. TEX. PENAL CODE ANN. § 12.31 (West 2014).

sufficient proof of each of the State's allegations and revoked appellant's community supervision. Punishment was assessed as noted. This appeal followed.

### Analysis

When reviewing an order revoking community supervision, the sole question before the appellate court is whether the trial court abused its discretion. *Flores v. State*, No. 07-14-00220-CR, 2015 Tex. App. LEXIS 335, at \*2 (Tex. App.—Amarillo Jan. 14, 2015, no pet.) (mem. op, not designated for publication) (citing *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006); *Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984)). In a revocation proceeding, the State must prove by a preponderance of the evidence that the probationer violated a condition of community supervision as alleged in the motion. *Flores*, 2015 Tex. App. LEXIS 335, at \*2 (citing *Cobb v. State*, 851 S.W.2d 871, 874 (Tex. Crim. App. 1993)). If the State fails to meet its burden of proof, the trial court abuses its discretion in revoking community supervision. *Id.* (citing *Cardona*, 665 S.W.2d at 494). In determining the sufficiency of the evidence to sustain a revocation, we view the evidence in the light most favorable to the trial court's ruling. *Id.* (citing *Jones v. State*, 589 S.W.2d 419, 421 (Tex. Crim. App. 1979)).

To support a trial court's order to revoke community supervision, the evidence need show only one violation of a term of community supervision. See *Smith v. State*, 286 S.W.3d 333, 342 (Tex. Crim. App. 2009) ("We have long held that 'one sufficient ground for revocation would support the trial court's order revoking' community supervision"); *Ledesma v. State*, No. 02-12-00433-CR, 2014 Tex. App. LEXIS 7263

(Tex. App.—Fort Worth July 3, 2014, no pet.) (per curiam) (mem. op., not designated for publication) (noting same); TEX. CODE CRIM. PROC. ANN. ART. 42.12, § 5 (West 2013) (trial court may revoke community supervision if any single condition is violated). A plea of “true” to even one allegation is sufficient to support revocation of community supervision. *Lewis v. State*, 195 S.W.3d 205, 209 (Tex. App.—San Antonio 2006, pet. denied); *Calderon v. State*, No. 07-03-0388-CR, 2004 Tex. App. LEXIS 4444, at \*8 (Tex. App.—Amarillo May 14, 2004, no pet.) (mem. op., not designated for publication) (citing *Moses v. State*, 590 S.W.2d 469, 470 (Tex. Crim. App. 1979)).

Through his first five issues, appellant complains the trial court failed to consider mitigating evidence when it determined the remaining allegations to be true, particularly with regard to his failure to pay required fines and fees and maintain employment. And, appellant contends the trial court wrongfully considered a juvenile conviction and inadmissible evidence from the community supervision officer, and also wrongfully required him to violate his Fifth Amendment rights while testifying.

As noted, appellant pled “true” to several of the State’s allegations. Those included the allegations he committed the new offense of criminal trespass and also failed to report it to his community supervision officer, associated with persons involved in illegal behavior, failed to report as required, failed to complete required community service, and failed to report as directed for intensive supervision.

We must therefore resolve all five issues against appellant. Even if we determined appellant’s contentions had merit, and concluded the trial court should not have found the other allegations true, no reversible error is shown because the trial

court was justified in revoking his community supervision based on his pleas of “true.” *Lewis*, 195 S.W.3d at 209; *Calderon*, 2004 Tex. App. LEXIS 4444, at \*8; see *Williams v. State*, No. 07-06-0393-CR, 2008 Tex. App. LEXIS 5150, at \*4 (Tex. App.—Amarillo July 10, 2008, no pet.) (mem. op., not designated for publication) (citations omitted). See also *Houston v. State*, Nos. 11-12-00217-CR, 11-12-00218-CR, 2014 Tex. App. LEXIS 8378, at \*6-7 (Tex. App.—Eastland July 31, 2014, pet. ref’d) (mem. op., not designated for publication) (“in light of Appellant’s plea of true to fifteen other alleged violations of the terms and conditions of community supervision, we need not consider Appellant’s evidentiary contentions to a single alleged violation”).

In appellant’s last issue, he contends the trial court erred by failing to suspend his sentence and establish bail pending finalization of his appeal. Appellant argues that pursuant to article 44.04 of the Code of Criminal Procedure, a defendant is entitled to reasonable bail pending the appeal from an order revoking community supervision if the sentence imposed does not exceed ten years of confinement. The relevant provision states:

(c) Pending the appeal from any felony conviction other than a conviction described in Subsection (b) of this section, the trial court may deny bail and commit the defendant to custody if there then exists good cause to believe that the defendant would not appear when his conviction became final or is likely to commit another offense while on bail, permit the defendant to remain at large on the existing bail, or, if not then on bail, admit him to reasonable bail until his conviction becomes final. The court may impose reasonable conditions on bail pending the finality of his conviction. On a finding by the court on a preponderance of the evidence of a violation of a condition, the court may revoke the bail.

TEX. CODE CRIM. PROC. ANN. art. 44.04(c) (West 2014).

We agree appellant's sentence did not exceed ten years of confinement and did not involve a section 3g(a)(1) offense, see TEX. CODE CRIM. PROC. ANN. art. 42.12, § 3g(a)(1) (West 2014), but the record does not support a conclusion the trial court abused its discretion by failing to establish bail. Nothing shows appellant requested the trial court to set bail and the record discloses reasons the court could have found good cause to believe bail in this case was inappropriate. See, e.g., *Johnson v. State*, No. 03-10-00770-CR, 2012 Tex. App. LEXIS 1099, at \*5 (Tex. App.—Austin Feb. 8, 2012, no pet.) (mem. op., not designated for publication) (denial of bail not an abuse of discretion where additional criminal conduct committed by defendant was sufficient to establish good cause to believe he would be likely to commit a new offense while on bail pending appeal). Accordingly, we overrule appellant's final issue.

#### Conclusion

Having resolved each of appellant's issues against him, we affirm the judgment of the trial court.

James T. Campbell  
Justice

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