



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

No. 07-20-00210-CR

MITCHELL DANTE MATHIS, APPELLANT

V.

THE STATE OF TEXAS

On Appeal from the 100th District Court
Childress County, Texas,
Trial Court No. 6432, Honorable Stuart Messer, Presiding

May 10, 2022

MEMORANDUM OPINION

Before PIRTLE and PARKER and DOSS, JJ.

On December 2, 2019, Appellant, Mitchell Dante Mathis, pled guilty to the offense of burglary of a habitation with intent to commit a felony other than felony theft¹ and was sentenced to six years' deferred adjudication community supervision with conditions. Condition one provided that Appellant (1) "commit no offense against the laws of this State," and (2) "notify [his] Community Supervision Officer . . . within forty-eight (48) hours

¹ See TEX. PENAL CODE Ann. § 30.02(a), (d) (a first-degree felony).

if arrested and/or charged with a criminal offense.” On February 12, 2020, the State filed its motion to revoke Appellant’s community supervision and adjudicate guilt alleging among other offenses, that Appellant committed the offense of assault family violence on December 17, 2019 and failed to notify his community supervision officer of his arrest within forty-eight hours.

In July 2020, the trial court conducted a hearing on the State’s motion. Ashley Franco testified that on December 17, 2019, Appellant headbutted her, giving her a black eye, took her to the living room floor, and punched her multiple times over her body. Officers were called; Appellant was arrested. Meaghan Gribble, Appellant’s community supervision officer, testified that she first became aware of this arrest through a DPS flash notice on January 2, 2020, sixteen days after his arrest. Appellant testified he “bumped heads” with Franco when they passed each other in a hallway and denied that he took her to the floor or punched her. He admitted, however, that Gribble was not notified of his arrest until two weeks after the event.

At the hearing’s conclusion, the trial court determined Appellant had violated the terms of his community supervision by (1) failing to notify his community supervision officer of his arrest within forty-eight hours and (2) committing the offense of assault family violence as alleged by the State. The trial court specifically found Franco to be a credible witness. The trial court then convicted Appellant of burglary of a habitation intending to commit a felony other than felony theft and assessed punishment at twenty-years’ confinement.

On appeal, Appellant asserts the trial court abused its discretion by finding the State had proven by a preponderance of evidence that he violated the terms of his community supervision by committing a new offense—assault family violence. We affirm.

Standard of Review

An appeal from a court’s order revoking deferred adjudication and adjudicating guilt is reviewed in the same manner as an order revoking straight community supervision. See TEX. CODE CRIM. PROC. ANN. art. 42A.108(b). When reviewing an order revoking community supervision imposed under an order of deferred adjudication, the sole question before this Court is whether the trial court abused its discretion. *Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013). In a revocation proceeding, the State must prove by a preponderance of evidence that the defendant violated a condition of community supervision as alleged in the motion to revoke. *Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012).

In the revocation context, “a preponderance of the evidence” means “that greater weight of the credible evidence which would create a reasonable belief that the defendant has violated a condition of his [community supervision].” *Hacker*, 389 S.W.3d at 865 (citing *Rickels v. State*, 202 S.W.3d 759, 764 (Tex. Crim. App. 2006)). The trial court abuses its discretion when revoking community supervision if, as to every ground alleged, the State fails to meet its burden of proof. *Soto v. State*, No. 07-20-00127-CR, 2020 Tex. App. LEXIS 7599, at *5-6 (Tex. App.—Amarillo Sept. 17, 2020, pet. denied) (citing *Cardona v. State*, 665 S.W.2d 492, 494 (Tex. Crim. App. 1984)). A single violation of community supervision is sufficient to support revocation. See *Garcia v. State*, 387

S.W.3d 20, 26 (Tex. Crim. App. 2012). When determining the sufficiency of the evidence supporting a revocation, we view the evidence in a light most favorable to the trial court's order. *Jones v. State*, 589 S.W.2d 419, 421 (Tex. Crim. App. 1979).

Analysis

On appeal, Appellant challenges only the evidence supporting a single ground for terminating his community supervision, i.e., whether he committed an offense against the laws of the State. By failing to challenge the trial court's determination that sufficient evidence supported his failure to timely inform his community supervision officer of his arrest, Appellant failed to prove the trial court abused its discretion. *See Garcia*, 387 S.W.3d at 26. We affirm the trial court's order granting the State's motion to revoke Appellant's community supervision.

Conclusion

The trial court's order is affirmed.

Lawrence M. Doss
Justice

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