



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-15-00152-CR

ANGELA BETH VILLINES, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 6th District Court
Lamar County, Texas
Trial Court No. 25003

Before Morriss, C.J., Moseley and Burgess, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

Finding “true” four of the State’s allegations that Angela Beth Villines violated the terms of her deferred adjudication community supervision,¹ the trial court adjudicated Villines’ guilt for manslaughter and sentenced her to fifteen years’ imprisonment. On appeal, Villines challenges the sufficiency of the evidence to support each of the four findings.² We affirm the trial court’s judgment because sufficient evidence supports at least the allegation of alcohol consumption by Villines.

A trial court’s decision to revoke community supervision and adjudicate guilt is reviewed under an abuse-of-discretion standard. *See Hammack v. State*, 466 S.W.3d 302, 304 (Tex. App.—Texarkana 2015, no pet.); *Lively v. State*, 338 S.W.3d 140, 143 (Tex. App.—Texarkana 2011, no pet.) (citing *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006)); *In re T.R.S.*, 115 S.W.3d 318, 320 (Tex. App.—Texarkana 2003, no pet.). It is not an abuse of discretion if the order revoking community supervision is supported by a preponderance of the evidence. *Lively*, 338 S.W.3d at 143. There is a preponderance of evidence if the greater weight of credible evidence would support a reasonable belief that the defendant has violated a condition of his or her community supervision. *Rickels*, 202 S.W.3d at 763–64; *Lively*, 338 S.W.3d at 143; *T.R.S.*, 115 S.W.3d at 320. In a revocation hearing, the trial court is the trier of fact. *T.R.S.*, 115 S.W.3d at 321. As such, it is the sole judge of the credibility of the witnesses and the weight of their

¹On November 5, 2013, Villines had pled guilty to manslaughter and had received a deferred adjudication of guilt and community supervision for three years. *See* TEX. PENAL CODE ANN. § 19.04 (West 2011).

²The trial court found that Villines had violated the terms of her community supervision by resisting arrest, by refusing to provide her date of birth after her arrest, by failing to report to the community supervision department in February 2015, and by drinking alcohol in violation of her treatment plan for alcohol abuse.

testimony. *Id.* Therefore, we view the evidence in the light most favorable to the trial court's ruling. *Lively*, 338 S.W.3d at 143 (citing *Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984)); *T.R.S.*, 115 S.W.3d at 321. If any ground for revocation is supported by a preponderance of the evidence, then there is no abuse of discretion. *Lively*, 338 S.W.3d at 143 (citing *Sanchez v. State*, 603 S.W.2d 869, 871 (Tex. Crim. App. [Panel Op.] 1980)); *T.R.S.*, 115 S.W.3d at 321 (citing *Stevens v. State*, 900 S.W.2d 348, 351 (Tex. App.—Texarkana 1995, pet. ref'd)).

The relevant conditions of Villines' community supervision provided that she must:

1. Commit no offense against the laws of the State of Texas . . . ;
2. Report in person as scheduled to the Community Supervision and Corrections Department (CSCD) of Lamar County, or the county in which you are permitted to reside.

. . . .

33. [Participate in] SAFFP[.]

Regarding SAFFP (Substance Abuse Felony Program),³ the trial court entered a special condition of community supervision order providing, in relevant part:

As a condition of community supervision, the defendant is required to serve a term of confinement and treatment in a substance abuse treatment facility under this section for a term of not less than 3 months or more than 1 year, and on release, the defendant is required to participate in a drug or alcohol abuse continuum of care treatment plan as developed by the Texas Commission on Alcohol and Drug Abuse, *abiding by all rules and regulations of said treatment plan until discharged* by the staff of the continuum of care program.

(Emphasis added). The State alleged, *inter alia*, that Villines had violated condition one by resisting arrest and by refusing to provide her date of birth to a peace officer after her arrest, that

³See TEX. CODE CRIM. PROC. ANN. art. 42.12, § 14(c), (d) (West Supp. 2015).

she had violated condition two by failing to report to the Lamar County Community Supervision & Corrections Department (CSCD) as scheduled in February 2015, and that she had violated condition thirty-three by failing to abide by the rules of her alcohol abuse continuum of care plan by being discharged as unsuccessful because of her continued use of alcohol. Since we need to find only that the State proved at least one of these allegations, we will discuss only one.

Renee Clark, Villines' community supervision officer, testified that, after Villines was released from a substance abuse treatment facility on August 29, 2014, she returned to Lamar County for her aftercare program. Clark explained that Villines did not complete her aftercare program because she was discharged due to continued alcohol use. Clark also testified that Villines admitted to drinking alcohol and that she also drank mouthwash containing alcohol, each of which was a violation of Villines' aftercare program. In addition, Clark testified that Villines' family provided Clark with emergency room records that showed that Villines had been treated for alcohol poisoning from drinking too much of the mouthwash. On cross-examination, Clark denied that Villines had told her she drank the alcohol to attempt suicide.

The only other testimony relevant to this issue came from Charles Keenan, a forensic psychologist, who examined Villines for competency to stand trial and for sanity. Keenan testified that Villines admitted to drinking mouthwash in an attempt to kill herself and that the emergency room records were consistent with this statement.⁴ However, Keenan also testified that mouthwash could contain ethyl alcohol and that, when he reviewed the laboratory work from the emergency

⁴The emergency room records reflect that Villines stated that she wanted to kill herself, that she was intoxicated with alcohol, that she had multiple cuts to her arm, and that police had been dispatched on a possible suicide attempt because she had been cutting her wrists.

room visit, he believed it stated that her blood contained ethyl alcohol.⁵ In addition, Keenan testified that, if someone is prohibited from drinking alcohol as a condition of community supervision, the prohibition would include mouthwash that contains alcohol.

Villines argues that, for there to be an offense, there must be a culpable state of mind rising at least to recklessness. *See* TEX. PENAL CODE ANN. § 6.02(a), (c) (West 2011). She then argues that recklessness requires awareness and that the evidence does not show that Villines was aware she had consumed alcohol. Rather, she argues, the evidence shows she consumed the mouthwash only to commit suicide. Villines' argument is misplaced, since this allegation did not allege any criminal offense, but simply the ingestion of alcohol. *See id.* (applies to criminal offenses). Even assuming there were some merit to this contention, the trial court was the sole judge of the credibility of the witnesses and the weight to be given their testimony. *See T.R.S.*, 115 S.W.3d at 321. As such, the trial court was free to accept or reject part or all of a witness' testimony. *See id.* (citing *Mattias v. State*, 731 S.W.2d 936, 940 (Tex. Crim. App. 1987)). Therefore, the court was under no obligation to believe the explanation given by Villines to Keenan. It was reasonable to reject this explanation since the emergency room records would support a conclusion that her suicide attempt involved cutting her wrists, not the consumption of mouthwash. Further, the evidence showed that she admitted drinking alcohol, independent of the mouthwash episode, and that she was expelled from her aftercare program for the continued use of alcohol.

⁵Although Keenan later stated he was not sure of this, the laboratory report from the emergency room shows Villines' blood had an ethyl alcohol level of 287 mg/dL.

Viewed in the light most favorable to the trial court's ruling, we find that this evidence supports the trial court's finding that Villines violated condition thirty-three of her community supervision.

We affirm the judgment of the trial court.

Josh R. Morriss III
Chief Justice

Date Submitted: February 26, 2016
Date Decided: March 23, 2016

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