



**NUMBER 13-16-00028-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI – EDINBURG**

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**STERLIN WILLIE TERRY,**

**Appellant,**

**v.**

**THE STATE OF TEXAS,**

**Appellee.**

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**On appeal from the 12th District Court of  
Walker County, Texas.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Garza and Longoria  
Memorandum Opinion by Justice Garza**

Appellant Sterlin Willie Terry appeals from the trial court's revocation of his community supervision.<sup>1</sup> By a single issue, appellant contends that the trial court erred

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<sup>1</sup> See TEX. CODE CRIM. PROC. ANN. art. 42.12, § 23 (West, Westlaw through 2015 R.S.).

in relying on hearsay testimony offered at appellant's revocation hearing. We affirm.

### **I. BACKGROUND<sup>2</sup>**

On June 17, 2014, pursuant to a plea agreement, appellant pleaded guilty to manufacture and delivery of a controlled substance in a drug-free zone, a third-degree felony offense. See TEX. HEALTH & SAFETY CODE ANN. § 481.134(b), (d) (West, Westlaw through 2015 R.S.). The trial court sentenced him to ten years' imprisonment, suspended the sentence, and placed him on community supervision for five years.

The State filed a motion to revoke on January 29, 2015, and an amended motion to revoke on October 16, 2015, alleging various violations of the conditions of his community supervision. At a hearing on December 2, 2015, appellant pleaded "true" to seven of the alleged violations and "not true" to three of the alleged violations. Following the hearing, the trial court found all but one of the alleged violations "true," revoked appellant's community supervision, and assessed punishment at seven years' imprisonment.

### **II. STANDARD OF REVIEW AND APPLICABLE LAW**

In a community supervision revocation hearing, the State need only prove its allegations by a preponderance of the evidence. *Jones v. State*, 112 S.W.3d 266, 268 (Tex. App.—Corpus Christi 2003, no pet.); *Herrera v. State*, 951 S.W.2d 197, 199 (Tex. App.—Corpus Christi 1997, no pet.) (citing *Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993)). "In the probation-revocation context, 'a preponderance of the evidence' means 'that greater weight of the credible evidence which would create a

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<sup>2</sup> This case is before this Court on transfer from the Tenth Court of Appeals in Waco pursuant to an order issued by the Texas Supreme Court. See TEX. GOV'T CODE ANN. § 73.001 (West, Westlaw through 2015 R.S.).

reasonable belief that the defendant has violated a condition of his probation.” *Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013). Appellate review of an order revoking community supervision is limited to a determination of whether the court abused its discretion. *Canseco v. State*, 199 S.W.3d 437, 439 (Tex. App.—Houston [1st Dist.] 2006, pet. ref’d). A single violation of a probation condition is sufficient to support the trial court’s decision to revoke probation. *Id.* An appellant’s plea of “true” to an allegation, standing alone, is sufficient to support the trial court’s order of revocation. *Brooks v. State*, 995 S.W.2d 762, 763 (Tex. App.—San Antonio 1999, no pet.); *Garcia v. State*, No. 13-10-00148-CR, 2011 WL 2585965, at \*2 (Tex. App.—Corpus Christi June 30, 2011, no pet.) (mem. op., not designated for publication).

The trial court is the trier of facts in a revocation proceeding and the sole judge of the credibility of witnesses and the weight to be given to the testimony. *Canesco*, 199 S.W.3d at 439. We examine the record of the revocation proceeding in the light most favorable to the trial court’s ruling. *Id.*

### **III. DISCUSSION**

By his only issue, appellant complains that: (1) the trial court could not have considered the contents of his probation file because the records were never admitted at the revocation hearing; and (2) because the records were not admitted, the testimony of Sheila Hugo, Deputy Director of Walker County Adult Probation, was hearsay.

We need not address appellant’s complaints, however, because as appellant admits, “all that is left is [a]ppellant’s own pleas of true to most of the violations.” Thus, even if we do not consider Hugo’s testimony or the contents of the probation file, appellant’s pleas of “true” to many of the State’s allegations, standing alone, were sufficient to support the trial court’s order of revocation. *See Brooks*, 995 S.W.2d at 763.

Therefore, any error by the trial court in considering Hugo's testimony is harmless. See TEX. R. APP. P. 44.2(b). We overrule appellant's sole issue.

#### **IV. CONCLUSION**

We affirm the trial court's judgment.

DORI CONTRERAS GARZA,  
Justice

Do not publish.  
TEX. R. APP. P. 47.2(b).

Delivered and filed the  
4th day of August, 2016.