



NUMBER 13-15-00502-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

KIA BRIEANNE JOHNSON ,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 24th District Court
of Victoria County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Hinojosa
Memorandum Opinion by Justice Hinojosa**

Appellant Kia Brieanne Johnson appeals from two judgments—one adjudicating guilt on a count of murder and another revoking community supervision on a count of engaging in organized criminal activity. See TEX. PENAL CODE ANN. §§ 19.02(b)(2), 71.02(a)(1) (West, Westlaw through 2015 R.S.). The trial court sentenced Johnson to

confinement for thirty and ten years, on each respective count, to run concurrently. In one issue, Johnson complains that the trial court erred by overruling an evidentiary objection at the hearing on the State's motions to adjudicate guilt and revoke community supervision. We affirm.

I. BACKGROUND¹

In 2011, Johnson, along with others, was charged by indictment with various counts of murder, engaging in organized criminal activity, and deadly conduct. *See id.* §§ 19.02(b)(3), 22.05(b)(1)-(2), 71.02(a)(1) (West, Westlaw through 2015 R.S.).

In 2013, Johnson waived her right to a trial by jury and pleaded guilty to the court to one count of murder and one count of engaging in organized criminal activity.² *See id.* §§ 19.02(b)(3), 71.02(a)(1). The trial court accepted both guilty pleas. For the count of murder, the trial court placed Johnson on deferred adjudication community supervision for ten years, assessed a \$4,000 fine, and ordered Johnson to serve eight hundred hours of community service. For the count of engaging in organized criminal activity, the trial court signed a judgment of conviction, sentenced Johnson to ten years' confinement, but placed her on community supervision for that period. As terms of community supervision, both the order of deferred adjudication and the judgment of conviction prohibited Johnson from committing an offense against the laws of this State or of the United States of America.

¹ Because this is a memorandum opinion and the parties are familiar with the facts, we will not recite them here except as necessary to advise the parties of the Court's decision and the basic reasons for it. *See* TEX. R. APP. P. 47.4.

² The State abandoned the remaining counts that had been lodged against Johnson in the indictment.

In 2015, the State filed motions to adjudicate guilt and revoke community supervision. In both motions, the State alleged that Johnson had violated a condition of her community supervision by committing the offenses of assault on a public servant, evading arrest, and failure to identify.³ At the hearing on both motions, Johnson pleaded “not true” as to the allegation of assault on a public servant but “true” as to the evading arrest and failure to identify allegations. The State called two police officers to testify in support of its allegations that Johnson committed the alleged offenses.

The trial court found that Johnson violated the terms of community supervision contained in both orders by committing the offenses of assault on a public servant, evading arrest, and failure to identify. It sentenced Johnson to confinement for thirty years for the murder count, and ten years for the engaging in organized criminal activity count, to run concurrently. This appeal followed.

II. DISCUSSION

Johnson’s sole issue is that the trial court erred by overruling an evidentiary objection at the hearing on the motions to adjudicate guilt and revoke community supervision. Reproduced below are the question posed to one of the two police officers who testified, defense counsel’s objection, the trial court’s statement, and the officer’s answer:

State’s Counsel:	When you say it wouldn’t surprise you, is that a rather common or frequent occurrence when there’s an assault of a public servant, for the Dallas County District Attorney to not pursue the assault-of-a-public-servant charge?
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³ The State alleged additional grounds in its motion to adjudicate guilt that have no bearing on our disposition of this appeal. TEX. R. APP. P. 47.1

Johnson's Counsel: Objection. Calls for speculation.

Court: If you know.

Police Officer: I have commonly seen it to where the Dallas County prosecutor will call the officer and ask the question, "How do you want to proceed?" or the charges have been dropped. I've seen it happen rather frequently, actually.

Johnson asserts that the officer's answer led to an improper implication or inference that Johnson's alleged violation for assault on a public servant did not result in a conviction against her merely because a police officer there did not wish to pursue it, rather than for more substantive reasons relating to "the case's facts, such as innocence."

A. Standard of Review and Applicable Law

We review the trial court's order revoking community supervision for an abuse of discretion. *Hacker v. State*, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013). A trial court may revoke community supervision if the State proves by a preponderance of the evidence that the defendant violated a condition of community supervision as alleged in the motion to revoke. *Rickels v. State*, 202 S.W.3d 759, 764 (Tex. Crim. App. 2006).

A finding of a single violation of community supervision is sufficient to support revocation. *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."); *Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. [Panel Op.] 1980); *Jones v. State*, 571 S.W.2d 191 193–94 (Tex. Crim. App. [Panel Op.] 1978). Additionally, a defendant's plea of true standing alone is sufficient to support a trial court's decision to revoke community supervision. *Cole v. State*, 578 S.W.2d 127,

128 (Tex. Crim. App. 1979); *Moses v. State*, 590 S.W.2d 469, 470 (Tex. Crim. App. [Panel Op.] 1979).

B. Analysis

Assuming, without deciding, that Johnson preserved her objection and that the trial court erred in overruling it, Johnson's pleading of "true" regarding the evading arrest and failure to identify allegations standing alone is sufficient to support a trial court's decision to revoke community supervision. See *Cole*, 578 S.W.2d at 128; *Moses*, 590 S.W.2d at 470. Therefore, the trial court did not abuse its discretion when it revoked Johnson's community supervision. See *Hacker*, 389 S.W.3d at 865. Johnson's sole issue is overruled.

III. CONCLUSION

The judgments adjudicating guilt and revoking community supervision are affirmed.

LETICIA HINOJOSA
Justice

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

Delivered and filed the
13th day of April, 2017