

NO. 12-11-00017-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*DONTE HOUSTON,
APPELLANT*

§

APPEAL FROM THE 349TH

V.

§

JUDICIAL DISTRICT COURT

*THE STATE OF TEXAS,
APPELLEE*

§

HOUSTON COUNTY, TEXAS

MEMORANDUM OPINION

Donte Houston appeals the trial court's order revoking his deferred adjudication community supervision, following which he was sentenced to imprisonment for two years. In one issue, Appellant contends that the trial court abused its discretion in revoking his community supervision. We affirm.

BACKGROUND

Appellant was charged by indictment with possession of less than one gram of cocaine and pleaded "guilty." The trial court deferred finding Appellant "guilty" and placed him on community supervision for five years. On September 2, 2010, the State filed its second amended motion to revoke Appellant's community supervision, in which it alleged that Appellant had violated certain terms and conditions of his community supervision. Among the violations alleged in the State's motion was that Appellant submitted a diluted urine analysis sample for a narcotics screening on December 8, 2008.

On December 16, 2010, the trial court conducted a hearing on the State's motion. At the commencement of the hearing, Appellant pleaded "true" to the allegation that he submitted a diluted urine analysis sample as alleged in the State's motion. At the conclusion of the hearing, the trial court found, among other things, that the allegation to which Appellant pleaded "true" was true. Thereafter, the trial court adjudicated Appellant "guilty" of possession of less than one gram of cocaine, revoked Appellant's community supervision, and sentenced Appellant to

imprisonment for two years. This appeal followed.

REVOCATION OF COMMUNITY SUPERVISION

In his sole issue, Appellant contends that the trial court erred in revoking his community supervision because the evidence is insufficient to support the revocation. The only question presented in an appeal from an order revoking community supervision is whether the trial court abused its discretion in revoking the defendant's community supervision. See *Lloyd v. State*, 574 S.W.2d 159, 160 (Tex. Crim. App. [Panel Op.] 1978). The standard of proof in a revocation proceeding is a preponderance of the evidence. *Id.* In order to satisfy its burden of proof, the state must prove that the greater weight of the credible evidence before the trial court creates a reasonable belief that a condition of community supervision has been violated as alleged in the motion to revoke. See *Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993).

Here, Appellant pleaded "true" to the allegation that he submitted a diluted urine analysis sample as alleged in the State's motion.¹ A plea of "true" to any one of the alleged violations contained in a motion to revoke is sufficient to support the trial court's order revoking community supervision. See *Moore v. State*, 11 S.W.3d 495, 498 n.1 (Tex. App.–Houston [14th Dist.] 2000, no pet.). Once a plea of "true" has been entered, a defendant may not challenge the sufficiency of the evidence to support the subsequent revocation. *Id.* (citing *Rincon v. State*, 615 S.W.2d 746, 747 (Tex. Crim. App. [Panel Op.] 1981); *Cole v. State*, 578 S.W.2d 127, 128 (Tex. Crim. App. [Panel Op.] 1979); *Hays v. State*, 933 S.W.2d 659, 661 (Tex. App.–San Antonio 1996, no pet.)). Therefore, since Appellant pleaded "true" to the aforementioned allegation in the State's motion, he may not challenge the sufficiency of the evidence to support the trial court's revocation of his community supervision.

Appellant argues, however, that this condition of his community supervision is vague and ambiguous and does not inform him with sufficient certainty what he should or should not do. In order to challenge a condition of community supervision, Appellant was required to preserve error by objecting to the trial court when the conditions of community supervision were imposed. See *Ivey v. State*, 16 S.W.3d 75, 76 (Tex. App.–Houston [1st Dist.] 2000, no pet.) (citing *Speth v. State*, 6 S.W.3d 530, 534-35 (Tex. Crim. App. 1999)); see also *Belt v. State*, 127 S.W.3d 277, 282 (Tex. App.–Fort Worth 2004, no pet.) (appellant waived due process complaint regarding term of community supervision because he failed to raise issue of due process in trial court). Here, there is no indication in the record that Appellant made any objection to the trial court when the

¹ The relevant condition of community supervision required Appellant's compliance as follows: "Submit to urinalysis testing at the request of your supervision officer to determine if you are using or under the influence of drugs or alcohol. . . . Any attempt to alter, manipulate, or otherwise corrupt the results will be a violation of probation."

conditions of community supervision were imposed. Therefore, we hold that Appellant has waived the error, if any, of which he complains. Accordingly, we hold that the trial court did not abuse its discretion in revoking Appellant's community supervision.

Appellant's sole issue is overruled.

DISPOSITION

Having overruled Appellant's sole issue, we *affirm* the trial court's judgment.

SAM GRIFFITH
Justice

Opinion delivered November 9, 2011.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)