

Affirmed and Opinion filed May 3, 2001.



In The

Fourteenth Court of Appeals

NO. 14-98-01459-CR

BYRON EUGENE COLEMAN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 212th Judicial District Court
Galveston County, Texas
Trial Court Cause No. 97CR0766**

OPINION

Byron Eugene Coleman appeals from the revocation of his community supervision. A jury convicted him of attempted aggravated assault of a child, assessed punishment at 10 years confinement, and recommended probation. Thereafter, the trial court found that Coleman violated three of the conditions placed on his community supervision. We affirm.

The trial judge placed a number of conditions on Coleman's community supervision, including that he serve 180 consecutive days in the Galveston County Jail. It was while he was serving this time that the State moved to revoke his community supervision. The State alleged and the trial court found that Coleman violated three of the conditions, specifically the

following:

1. Commit no offense against the laws of the State of Texas or of any other State, the United States or any governmental entity; ... 49. Have no contact with minor children without another adult present who has been designated as a chaperon by one of the Department's approved sex offender therapist [sic] and the community supervision officer; [and] 60. Defendant shall write a letter of apology to the victim and present it to his Community Supervision Officer within thirty (30) days.

In three points of error, Coleman contends: (1) that the evidence is insufficient to support the finding that he violated the first condition of his community supervision, and (2) that conditions 49 and 60 are so vague as to be unenforceable because they did not sufficiently inform him of what he was required to do or prohibited from doing. In regard to the first condition, the State alleged and the trial court found that Coleman assaulted fellow inmate Gerald Place while Coleman was serving his 180 days. Coleman contends the evidence is insufficient to support this finding.

A proceeding to revoke community supervision is an administrative proceeding, in which the rules of criminal evidence and procedure generally apply. *Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993). In a revocation hearing, the state must prove by a preponderance of the evidence that the defendant violated a condition of his probation. *Id.* Our review of the evidence is limited to determining whether the trial court abused its discretion in revoking the defendant's probation. *Burke v. State*, 930 S.W.2d 230, 232 (Tex.App.-Hous. (14 Dist.) 1996, pet. ref'd). In conducting this review, we are to view the evidence in the light most favorable to the trial court's order. *Id.* The trial court is the exclusive judge of the credibility of the witnesses and determines if the allegations in the motion to revoke are sufficiently demonstrated. *Id.*

Deputy Sheriff James Herndon was working at the Galveston County jail on September 9, 1998. He testified that he was called to a "tank" by the resident inmates and inmate Gerald Price told Herndon that Coleman hit him. Herndon further stated that Place's face appeared swollen and red like he had been in a fight. Coleman denied the allegation at the time, but

Herndon said that, at a later date, Coleman admitted to hitting Place.

Place testified that he originally thought that Coleman was the one that hit him, and he acknowledged telling Deputy Herndon that Coleman did it. But he said that he does not now believe that it was Coleman. He thinks it could have been someone else in the cell. When asked why he no longer thinks it was Coleman that hit him, Place replied: “He’s in enough trouble as it is.” Place also said that he and Coleman talk sometimes and that they are housed in adjoining tanks.

Coleman denied ever admitting to Deputy Herndon that he hit Place. He explained that: “I said I got locked down for it. It was like I should have hit him.” Coleman said he did not know who did hit Place. At different times during his testimony, Coleman described a conversation he said he had with Place right before Price got hit but then said he was watching TV when Place was attacked and didn’t see who hit him.

As the sole judge of the credibility of the witnesses, the trial court was free to believe Deputy Herndon’s testimony that Place identified Coleman as the assailant and that Coleman admitted to the assault, and the court was also free to disbelieve Place’s recantation and Coleman’s denial. *See Burke*, 930 S.W.2d at 232. The apparent inconsistencies in Coleman’s and Place’s answers further supports the trial court’s determination. Viewing the evidence in the light most favorable to the trial court’s order, we find that the evidence was sufficient to support the determination that Coleman violated the first condition of his community supervision by assaulting Place. *See Id.* This point of error is overruled.

Proof of a single violation of the conditions placed on community supervision is sufficient to support revocation. *Id.* Since we affirm the trial court’s determination that Coleman violated the first condition, it is unnecessary for us to consider Coleman’s other points of error challenging the other grounds relied on by the trial court in revoking his community supervision. *See Johnson v. State*, 638 S.W.2d 206, 208 (Tex. App.—Fort Worth 1982, no pet.).

We affirm the judgment of the trial court.

/s/ D. Camille Hutson-Dunn
Justice

Judgment rendered and Opinion filed May 3, 2001.

Panel consists of Justices Sears, Draughn, and Hutson-Dunn.*

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* Senior Justices Ross A. Sears, Joe L. Draughn, and D. Camille Hutson-Dunn sitting by assignment.