Affirmed and Opinion filed November 30, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-99-00821-CR

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JASON CHRISTOPHER GARCIA, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from 272nd District Court
Brazos County, Texas
Trial Court Cause No. 25,809-272

O P I N I O N

Jason Christopher Garcia appeals the revocation of his community supervision on the grounds that: (1) he was denied due process because the visiting judge, sitting by assignment, was not authorized to revoke his community supervision; and (2) the evidence was factually insufficient. We affirm.

Background

Appellant was convicted of possession of a controlled substance and sentenced to two years in a state jail facility, probated for four years. Pursuant to the State's motion, and after a hearing, the trial court revoked appellant's community supervision and assessed punishment at two years confinement.

Due Process

Appellant's first issue contends that he was denied due process because the visiting judge was not authorized to revoke his community supervision. Appellant relies on article 42.12, section 10, of the Texas Code of Criminal Procedure, which states, in part, that: "[o]nly the *court* in which the defendant was tried may . . . revoke the community supervision . . ." and ". . . the determination of action to be taken after arrest shall be only by *the judge of the court* having jurisdiction of the case at the time the action is taken." *See* TEX. CODE CRIM. PROC. ANN. art. 42.12, § 10(a), (c) (Vernon Supp. 2000). According to appellant, this language requires the original sentencing judge to preside over any community supervision revocation hearing. However, the foregoing provisions require only that the same *trial court* revoke the community supervision, not the same *judge*. *See Wise v. State*, 477 S.W.2d 578, 580 (Tex. Crim. App. 1972). Since Judge Kitzman was sitting by assignment as the judge of the 272nd District Court, the original sentencing court, he had full power and authority to revoke appellant's community supervision.[1] Accordingly, issue one is overruled.

Factual Sufficiency

Appellant's second issue contends that the evidence was factually insufficient to revoke his community supervision because the judgment and sentence in the underlying conviction were not formally introduced into evidence. However, in sufficiency of the evidence challenges, as long as the judgment and order of probation appear in the record on appeal, the State is not required to introduce those documents into evidence. *See Cobb v. State*, 851 S.W.2d 871, 873-74 (Tex. Crim. App. 1993). Because appellant's second issue thus fails to demonstrate that the evidence was factually insufficient to revoke his community supervision, it is overruled, and the judgment of the trial court is affirmed.

/s/ Richard H. Edelman

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[1] A judge sitting by assignment possesses all the powers of the court to which he is assigned. *See Alexander v. State*, 903 S.W.2d 881, 883 (Tex. App.—Fort Worth 1995, no pet.); *see also* TEX. GOV'T CODE ANN. § 74.052 (Vernon 1988). Because appellant did not challenge Judge Kitzman's assignment to the court, it is presumed that the assignment was properly made in accordance with all statutory requirements. *See Alexander* 903 S.W.2d at 883.

Justice

Judgment rendered and Opinion filed November 30, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

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