

Affirmed and Opinion filed May 18, 2000.



In The

## **Fourteenth Court of Appeals**

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**NO. 14-99-00650-CR**

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**CARL VESTER YOUNG, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 174<sup>th</sup> District Court  
Harris County, Texas  
Trial Court Cause No. 765,556**

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### **O P I N I O N**

Appellant, Carl Vester Young, pleaded guilty to the state jail felony of theft and the trial court assessed punishment at two years confinement in a state jail facility. The trial court suspended imposition of the sentence and placed appellant on community supervision for four years. Subsequently, the trial court revoked appellant's community supervision and sentenced him to two years confinement. In one point of error, appellant asserts the trial court abused its discretion in revoking his community supervision. Specifically he claims that the evidence was insufficient to prove he violated a condition of community service. Finding the evidence sufficient, we affirm the judgment of the trial court.

Appellant challenges the sufficiency of the evidence to support the trial court's revocation of community supervision. The State's burden of proof on a motion to revoke community supervision is by a preponderance of the evidence that the terms of community supervision were violated. *See Cobb v. State*, 851 S.W.2d 871, 873 (Tex. Crim. App. 1993). The State satisfies its burden of proof when the greater weight of credible evidence before the court creates a reasonable belief that it is more probable than not that a condition of probation has been violated as alleged in the motion to revoke. *See Joseph v. State*, 3 S.W.3d 627 (Tex. App.—Houston [14 Dist.] 1999, no pet.). In a community supervision revocation hearing, the trial judge is the sole trier of fact and determines the credibility of the witnesses and the weight to be given to their testimony. *See Martin v. State*, 571 S.W.2d 20, 22 (Tex. Crim. App. 1978). The trial judge may accept or reject any or all of the witness' testimony. *See Mattias v. State*, 731 S.W.2d 936, 940 (Tex. Crim. App. 1987).

Appellate review of an order revoking community supervision is limited to determining whether the trial court abused its discretion. *See Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984). An abuse of discretion occurs where the trial judge's decision was so wrong that it falls outside the zone within which reasonable persons might disagree. *See Cantu v. State*, 842 S.W.2d 667, 682 (Tex. Crim. App. 1992). We examine the evidence in the light most favorable to the trial court's order revoking community supervision. *See Jackson v. State*, 645 S.W.2d 303, 305 (Tex. Crim. App. 1983).

In its motion to revoke, the State alleged appellant violated a condition of community supervision that he commit no offense against the laws of this State by assaulting Darrell Balls. To meet its burden, the State needed to prove by a preponderance of the evidence that appellant intentionally or knowingly caused bodily injury to Balls. *See TEX. PEN. CODE ANN. § 22.01* (Vernon 1994).

Darrell Balls and Jacinto Valenzuela worked as account managers for Rent-A-Center where they collected delinquent accounts. In that capacity, Balls and Valenzuela went to appellant's residence to collect an overdue payment on a refrigerator he had rented. When they arrived in a Rent-A-Center truck at appellant's house between 8:00 p.m. and 9:00 p.m., appellant was in the front yard barbecuing with friends.

Balls and Valenzuela testified that appellant approached the truck, uttered a racial slur, and punched Balls in the face. After Balls got out of the truck, appellant tackled him and they began wrestling on the ground. Appellant straddled Balls' body and continued to punch him in the face. After a minute and a half, appellant's girlfriend told him to get off of Balls. Balls and Valenzuela returned to the truck and left. Balls sustained cuts and bruises to his face and arms, a knot on his head, as well as a bursted blood vessel in his eye.

Appellant, on the other hand, testified to a different version of events. According to appellant, Balls exited the truck, walked to appellant, and uttered a racial slur. Balls then punched appellant on his right jaw. Appellant claimed he wrestled with Balls in self-defense. Appellant asserted that he did no fist fighting due to a bad right forearm.

While appellant claimed ten or twelve neighbors were present during the altercation, none of his neighbors testified. The State stipulated to one neighbor's letter that indicated Balls was using foul language and hit appellant in the face.

Upon a review of the evidence, we hold that the trial court did not abuse its discretion in revoking appellant's community supervision. Regardless of conflicts, we find the evidence presented to the court was sufficient to prove, by a preponderance of the evidence, that appellant assaulted Balls in violation of a condition of his community supervision. Appellant's sole issue for review is overruled.

The judgment of the trial court is affirmed.

/s/ John S. Anderson  
Justice

Judgment rendered and Opinion filed May 18, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

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