Affirmed and Opinion filed April 19, 2001.

In The

Fourteenth Court of Appeals

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NO. 14-01-00058-CR

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ADAM H. HERNANDEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 183rd District Court
Harris County, Texas
Trial Court Cause No. 864,106

O P I N I O N

Appellant, Adam H. Hernandez, appeals the revocation of two bonds pending the appeal of convictions for possession of heroin with intent to deliver and possession of methamphetamine. We affirm.

On April 28, 2000, appellant entered an agreed plea to both possession offenses and the trial court assessed concurrent sentences for each offense at seven years' confinement in the Institutional Division of the Texas Department of Criminal Justice. The trial court set an appeal bond of $20,000 in each case. On August 28, 2000, appellant was arrested for

possession of less than one gram of heroin and in November 2000, the grand jury returned an indictment against him on the offense. On December 14, 2000, the trial court heard appellant's application for writ of habeas corpus related to the new charge. In disposing of the application on the new charge,[1] the trial court revoked the appeal bonds from the earlier convictions. On December 19, 2000, appellant filed an application for writ of habeas corpus, in which he challenged the revocation of the appeal bonds on the two prior convictions. After a hearing, the trial court denied appellant's application.

Appellant contended in the December 19th habeas application that he was illegally confined on the new drug possession charge from the time of his arrest on August 28th until the habeas hearing on December 14th. Appellant claimed he did not commit the new offense but was set up by the same officer who had arrested him for the two earlier possession offenses. Appellant argued because he did not commit the new offense, the revocation of his bonds pending appeal was unjustified.

A trial court may revoke bond pending an appeal on a finding by a preponderance of the evidence that the appellant violated a condition of the bond. TEX. CODE CRIM. PROC. ANN. art. 44.04(c) (Vernon 2000). A trial court may also revoke bond if there is good cause to believe that a defendant would not appear or is likely to commit another offense while on bail. *Ex parte LeBlanc*, 615 S.W.2d 724, 726 (Tex. Crim. App. 1981). Proof that a defendant committed an offense while on bail is sufficient to sustain an appeal bond revocation. *Putman v. State*, 582 S.W.2d 146, 151 (Tex. Crim. App. 1979).

The record of the hearing on appellant's December 19th application is merely a recitation of the facts previously discussed. Appellant testified at the hearing that his testimony would be the same as the information stated in the application for writ of habeas corpus. The trial court admitted the application for the limited purpose of substituting appellant's testimony. The State declined to cross-examine appellant. Appellant requested

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[1] The record is unclear whether the trial court granted bail to appellant for the new charge.

reinstatement of the bonds and the trial court denied the request.

The record of the hearing on appellant's December 14th application, where the trial court revoked appellant's appeal bonds, is not in the record before this court. "If the trial court denies relief to a habeas corpus applicant, the applicant has the burden of presenting an appellate record sufficient to show that the trial court erred; in the absence of a complete record, an appellate court is not in a position to overrule the trial court." *Ex parte Gutierrez*, 987 S.W.2d 227, 230 (Tex. App.—Austin 1999, pet. ref'd). Because appellant did not present the record of the December 14th hearing, he failed to present a sufficient record on appeal to show that the trial court erred in denying his habeas application. Accordingly, we affirm the trial court's order denying habeas corpus relief.

PER CURIAM

Judgment rendered and Opinion filed April 19, 2001.
Panel consists of Justices Edelman, Frost and Senior Chief Justice Murphy.[2]
Do Not Publish — TEX. R. APP. P. 47.3(b).

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[2] Senior Chief Justice Paul C. Murphy sitting by assignment.