



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-19-00262-CR

RICHARD MALCOLM ALMON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 196th District Court
Hunt County, Texas
Trial Court No. 25263

Before Morriss, C.J., Burgess and Stevens, JJ.
Memorandum Opinion by Justice Stevens

MEMORANDUM OPINION

On September 28, 2009, Richard Malcolm Almon was convicted of two counts of indecency with a child by exposure¹ and sentenced to ten years' imprisonment on each count with the sentences to run concurrently. The trial court suspended Almon's sentences and placed him on community supervision for a period of ten years. Ten years later, the trial court revoked Almon's community supervision on both counts and sentenced him to ten years' imprisonment on each count, with his sentences to run concurrently.

On appeal, Almon complains that the trial court erred in revoking his community supervision because there was no written judgment placing him on community supervision after his guilt was adjudicated. Because his complaint is without merit, we overrule Almon's sole issue and affirm the judgments of the trial court.

I. Procedural Background

The record in this case shows that, on September 28, 2009, the trial court entered separate judgment(s) of conviction that convicted Almon of two offenses of indecency with a child by exposure, suspended his sentences, and placed him on community supervision for ten years. Each of the judgments specifically recites, "Having heard the evidence submitted, the Court found Defendant guilty of the offense indicated above." On the same date, the trial court also entered an order setting forth the terms and conditions of community supervision for each judgment of conviction. Almon acknowledged receipt of the orders by his written signature.

¹See TEX. PENAL CODE ANN. § 21.11(a)(2).

On March 5, 2010, the trial court entered an Agreed Order to Amend Conditions of Deferred Adjudication Community Supervision.² The agreed order added three additional conditions to “the Judgment and Conditions of Community Supervision ordered by the Court . . . on the 28th day of September 2009” and provided that “the original ordered terms and conditions of community supervision [would] remain in full force and effect.”

The State filed two motions to revoke Almon’s deferred adjudication community supervision and to proceed to final adjudication on March 14, 2011. An entry in the trial court’s docket for March 30, 2011, indicates that there was an adjudication of guilt and a ten-year, probated sentence imposed. However, no written order or judgment reflecting that docket entry appears in the record. Rather, on March 31, 2011, the trial court entered an order that denied the State’s motion to revoke and added new conditions to Almon’s previously ordered conditions of community supervision.

On July 17, 2019, the State filed its fourth motion to revoke Almon’s community supervision. Almon pled true to the State’s allegations in its motion, and after a hearing, the trial court revoked Almon’s community supervision and sentenced him to ten years’ imprisonment on each count, with the sentences to run concurrently.

²Although this order mentioned deferred adjudication, the record does not reflect that Almon was placed on deferred adjudication community supervision at any time.

II. Analysis

In his sole issue, Almon complains that the trial court erred in revoking his community supervision because there was no written judgment placing him on community supervision³ after his guilt was adjudicated. Almon asks this Court to accept his contention that his guilt was never adjudicated and points to the references to “deferred adjudication” in the title of the March 2010 agreed order and in certain filings by the State and the reference to “adjudication of guilt” in the trial court’s docket in support of this contention. However, Almon does not direct this Court to, and we have not found, any place in the record brought forward on appeal that shows that Almon was at any time placed on deferred adjudication community supervision by the trial court.

Rather, the record affirmatively shows that the trial court found Almon guilty of the offenses in its original judgment(s) of conviction on September 28, 2009,⁴ and that it placed him on ten years’ community supervision on that same date.⁵ Although the State made incorrect references to deferred adjudication in some of its motions, this would have no effect on the trial court’s prior adjudication of Almon’s guilt in its judgments of conviction. In addition, although it appears the trial court may have been temporarily confused when it made the March 30, 2011,

³When a trial court grants community supervision, “it must be reflected in the written judgment.” *Shortt v. State*, 539 S.W.3d 321, 324 (Tex. Crim. App. 2018) (citing TEX. CODE CRIM. PROC. ANN. art. 42.01, § 1(10) (requiring that a written judgment, “[i]n the event of conviction where the imposition of sentence is suspended and the defendant is placed on community supervision, set[] forth the punishment assessed, the length of community supervision, and the conditions of community supervision”).

⁴In a bench trial, the trial court’s written judgment must recite “the finding or findings of the court.” TEX. CODE CRIM. PROC. ANN. art. 42.01, § 1(7) (Supp.).

⁵Almon does not contend that these judgments did not accurately reflect the trial court’s oral pronouncement of its judgments.

docket entry, any confusion was rectified by the time it entered its March 31, 2011, order that left its previously ordered conditions of community supervision intact.

Since the record affirmatively shows that the written judgments of conviction adjudicated Almon guilty of the two offenses and placed him on community supervision and that the judgments were filed prior to the trial court's revocation of the community supervision, we find that Almon's complaint is without merit. As a result, we overrule Almon's sole issue.

III. Conclusion

For the reasons stated, we affirm the trial court's judgment.

Scott E. Stevens
Justice

Date Submitted: May 26, 2020

Date Decided: July 8, 2020

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