

1 Adjudicate Guilt?

2 MS. DREHNER: Yes, Your Honor.

3 The State would call Keith Black.

4 (Witness duly sworn.)

5 THE COURT: Ms. Drehner, you may proceed.

6 MS. DREHNER: Thank you, Your Honor.

7 KEITH BLACK,

8 having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MS. DREHNER:

11 Q. Please state your name for the record.

12 A. Keith Black.

13 Q. And how are you employed?

14 A. I'm a community supervision officer employed by

15 Harris County Community Supervision and Corrections

16 Department.

17 Q. And how long have you been employed with the

18 supervision department?

19 A. Since May of '99.

20 Q. And as part of your employment, do you

21 supervise people placed on probation?

22 A. Yes, I do.

23 Q. And do you supervise Troy Bienvenue?

24 A. Yes, I do.

25 Q. Do you see Troy Bienvenue in the court today?

1 A. Yes, he is.

2 Q. Can you please point him out?

3 A. He'd be the black gentleman to my left wearing  
4 a gray sweatshirt -- looks like a basketball-type gray  
5 T-shirt.

6 MS. DREHNER: Let the record reflect that  
7 the witness has identified the defendant.

8 THE COURT: The record will so reflect.

9 Q. (BY MS. DREHNER) And as the probation officer,  
10 you have care, custody, and control of his probation  
11 file?

12 A. Yes, I do.

13 Q. Do you have that file with you today?

14 A. Yes, I do.

15 Q. What case number is he on probation for?

16 A. 1244282-01010.

17 Q. And are the notations and the records in that  
18 file completed at the time or shortly after the  
19 information is obtained?

20 A. Yes.

21 Q. Is the information filled out pursuant to the  
22 legal duty of the officer?

23 A. Yes.

24 Q. It's part of their regular course of business?

25 A. Yes.

1 Q. And when was Mr. Bienvenue placed on probation?

2 A. August 27, 2010.

3 Q. And for what charge?

4 A. Possession with intent to manufacture and  
5 deliver controlled substance group 3/4, 200 to 399 grams.

6 MS. QUINONES: Your Honor, at this time I  
7 would object to the witness reading from something that  
8 has not been offered into evidence. He can surely use it  
9 to refresh his memory; but to actually read from it, I  
10 would object.

11 THE COURT: All right, sir. You may look  
12 at it, refresh your memory, and then answer the question.

13 Q. (BY MS. DREHNER) So, what is he on probation  
14 for?

15 A. Possession with intent to manufacture and  
16 deliver a controlled substance group 3/4, 200 to 399  
17 grams.

18 Q. Does your file indicate that he was told the  
19 responsibilities and rules of probation?

20 A. Yes.

21 Q. When was that?

22 A. August 27, 2010.

23 Q. And where was that done?

24 A. It was either on bond or in the holdover cell.

25 Q. And in this courtroom?

1 A. Yes.

2 Q. And who conducted that?

3 A. Myself.

4 Q. Is there documentation to indicate this?

5 A. Yes.

6 Q. That's in your file?

7 A. Correct.

8 Q. Does it contain his signature and dates  
9 indicating that he understood --

10 A. Yes.

11 Q. -- the terms of probation?

12 Have there been any changes or alterations  
13 to that document?

14 A. There are no amended conditions.

15 Q. Did he comply with his conditions?

16 A. He was arrested for a new charge.

17 Q. Well, basically, in general, what were the  
18 terms of the probation?

19 A. No new charges, no alcohol, no drug use,  
20 employment, pay fees, perform community service, alcohol  
21 and drug evaluation and offender ID card, high school  
22 diploma or G.E.D., Texas Drug Offender Education Program,  
23 do not enter any agreement to act as an informant or  
24 special agent of a law enforcement agency without the  
25 permission of the Court, no firearms. And that means no

1 transportation, possessing, receiving or purchasing  
2 firearms or ammunition. He's not to lie and make false  
3 statement to any employee of H.C.C.D. Do not use,  
4 ingest, or consume any substance that will alter or  
5 adulterate your urinalysis results. And, basically, if  
6 you have to declare bankruptcy, you must notify the  
7 probation department.

8 Q. And did Mr. Bienvenue comply with these  
9 conditions?

10 A. Which specific condition would you like to know  
11 about?

12 Q. Well, which ones did he not comply with?

13 MS. QUINONES: I'm going to object as to  
14 leading. There's been no testimony that he hasn't  
15 complied.

16 THE COURT: Please rephrase your question.

17 Q. (BY MS. DREHNER) Did he comply with all the  
18 conditions?

19 A. No.

20 Q. Which ones did he not comply with?

21 A. Employment and injurious or vicious habits.

22 Q. Okay. Let's take the first one.

23 A. Okay.

24 Q. How did he violate the employment provision?

25 A. Failure to provide proof of employment or

1 provide proof of seeking employment.

2 Q. Were there particular months associated with  
3 his failure to provide proof of employment?

4 A. Yes, there are.

5 Q. What were those months?

6 A. September, 2010; October, 2010; November, 2010;  
7 December, 2010; January, 2011; February, 2011; March,  
8 2011 --

9 MS. QUINONES: Again, Your Honor, I'm  
10 going to have to object to the witness reading from a  
11 document that is not offered into evidence.

12 THE COURT: Are you reading from the  
13 court's file?

14 THE WITNESS: From the Motion to  
15 Adjudicate.

16 THE COURT: Overrule your objection.

17 MS. QUINONES: Thank you.

18 Q. (BY MS. DREHNER) So, you had left off at,  
19 I think, May of 2011.

20 A. June, 2011; July, 2011; August, 2011;  
21 September, 2011; and October, 2011.

22 Q. Did he violate any other provisions of  
23 probation?

24 A. Possession of prescription drugs that didn't  
25 belong to him. That's the alleged No. 2 violation.

1 Q. And on what date was that violation?

2 A. April 10th -- excuse me -- June -- that's a  
3 typographical. It says April 10, 2002.

4 Q. I think you're looking at the enhancement.

5 A. That's an enhancement.

6 November 29, 2011.

7 MS. DREHNER: Pass the witness?

8 THE COURT: Ms. Quinones.

9 MS. QUINONES: Thank you, Judge.

10 CROSS-EXAMINATION

11 QUESTIONS BY MS. QUINONES:

12 Q. Mr. Black, I want to go over a couple of things  
13 with you. Specifically, you listed out a number of  
14 things that Mr. Bienvenue was required as a result of the  
15 probation; is that right?

16 A. Correct.

17 Q. One of those things would be avoid using drugs  
18 and using alcohol; is that right?

19 A. Yes.

20 Q. And, periodically, he would be randomly tested;  
21 is that right?

22 A. Correct.

23 Q. And not one time during his probation did he  
24 ever test positive for any drug usage; is that right?

25 A. Yes, ma'am.

1 Q. He also was required to perform community  
2 service hours; is that right?

3 A. Yes, ma'am.

4 Q. And how many hours was he required to perform?

5 A. 250 hours.

6 Q. And, in fact, he had completed that; is that  
7 right?

8 A. Yes, ma'am.

9 Q. He was also required to pay fees as a result of  
10 being on probation.

11 A. Yes, ma'am.

12 Q. And he was current with all of his fees, was he  
13 not?

14 A. He owes \$120 today.

15 Q. As of today. But at the time that the motion  
16 was filed, he was current?

17 A. Yes.

18 Q. And once a motion is filed, the file comes to  
19 the court; and, basically, the defendant has to report to  
20 the court?

21 A. Correct.

22 Q. And it's customary that they don't pay fees at  
23 that point if they're coming back and forth to court.

24 A. No. They do pay fees because they're still on  
25 probation.



1 Q. Oh, so they are -- okay. But at the time that  
2 the motion was filed, no fees were owed?

3 A. Correct.

4 Q. There was also probationary fees -- supervisory  
5 fees that he was to pay?

6 A. Correct.

7 Q. And at the time that the motion was filed, he  
8 had paid all of those; is that right?

9 A. At the time, yes.

10 Q. Now, we talked about the unemployment, that for  
11 the months that you listed on direct examination, that he  
12 was unemployed during those months, right?

13 A. Correct.

14 Q. Now, if a person or a defendant is unable to  
15 find a job, then they are required, in lieu of finding a  
16 job, to provide to the probation officer proof that they  
17 have been looking for a job, correct?

18 A. Correct.

19 Q. And Mr. Bienvenue provided that proof, did he  
20 not?

21 A. No, ma'am, he did not.

22 Q. So, is it your testimony that there is nothing  
23 in that file that gives the probation officer any notice  
24 that he looked for a job?

25 A. I see a job search list for April, 2011, with

1 eight entries. There is another April log that was  
2 turned in in May with nine entries.

3 Q. I'm sorry?

4 A. With nine entries.

5 Q. Okay. Which month is this?

6 A. For May. May, covering April.

7 Q. Okay.

8 A. And in June, 11 entries. June and July,  
9 another 17 entries. Another 17 entries for July.  
10 Sixteen entries for August and September. That would be  
11 2011. Seventeen entries for October, 2011. Seventeen  
12 entries from October, 2011, to November 3, 2011. And  
13 then in May, 2012, 18 entries.

14 Q. Okay. So, for a lot of the months that are  
15 alleged in the Motion to Adjudicate, he did, in fact,  
16 provide proof that he was looking for a job?

17 A. That's correct.

18 Q. So, then, your statement earlier that he did  
19 not provide proof was a mistake. You misspoke?

20 A. Correct.

21 Q. So, then, in regards to testing positive for  
22 drugs, he never did that?

23 A. Correct.

24 Q. He completed all his community service hours?

25 A. Yes, ma'am.

1 Q. Up until the time that the motion was filed,  
2 all fines and supervisory fees were paid?

3 A. Correct.

4 Q. Although he was unemployed, he provided  
5 substantial proof that he was looking for employment?

6 A. Correct.

7 Q. And there is no set number of jobs that a  
8 defendant must look for, correct?

9 A. No, ma'am.

10 Q. So, he could come in with two jobs, if he  
11 wanted to, that he had looked for jobs, correct?

12 A. They could.

13 Q. But, in fact, this defendant, Mr. Bienvenue,  
14 provided at least on every occasion on the upwards of  
15 10 -- between 10 and 20?

16 A. That would be fair.

17 Q. So, Mr. Black, how often, given the situation,  
18 if we were to remove the law violation and only speak to  
19 the technical violation of unemployment -- because other  
20 than the new law violation, the only thing we have before  
21 this Court is that he was unemployed?

22 A. Correct.

23 Q. And the probation officers surely -- or the  
24 probation office understands that people who are  
25 similarly situated as Mr. Bienvenue, given his criminal

1 history, they find it difficult to find jobs?

2 A. Potentially, yes.

3 Q. So, then, there is that caveat saying, Well,  
4 okay, if you can't find a job, then you need to be  
5 looking for one?

6 A. Correct.

7 Q. Okay. And if you do that, then we'll move  
8 things along, correct?

9 A. Correct.

10 Q. And without this new violation, that's exactly  
11 what would have happened. He would have continued to  
12 move things along because he was doing everything else he  
13 was supposed to do.

14 A. Correct.

15 Q. So, it's basically this new violation that  
16 we're looking at in terms of the Motion to Adjudicate  
17 before the Court?

18 A. Yes.

19 Q. Is there anything else in your file, then,  
20 other than this new law violation, that dictates that  
21 Mr. Bienvenue was not doing what the Court ordered him to  
22 do?

23 A. No, ma'am.

24 Q. So, otherwise, but for the law violation, he  
25 was a good probationer?

1 A. (No response.)

2 Q. Other than the new law violation.

3 A. It depends on what your definition of "good  
4 probationer" is.

5 Q. Okay. Well, when was he placed on probation,  
6 sir?

7 A. August 27, 2010.

8 Q. And the motion was filed in 2011?

9 A. Correct.

10 Q. So, within one year's time, he completed 250  
11 hours?

12 A. True.

13 Q. That's good, right?

14 A. Yes.

15 Q. That doesn't normally happen, does it?

16 A. No.

17 Q. During a year's time, not one dirty U.A.?

18 A. Correct.

19 Q. That's good, right?

20 A. Yes.

21 Q. Not very often that it happens that well,  
22 correct?

23 A. To be fair, yes.

24 Q. So, in all, then, I could go down the same  
25 thing over and over again. So, but for the new

1 violation, a pretty good probationer?

2 A. Yes.

3 MS. QUINONES: I'll pass the witness.

4 THE COURT: Ms. Drehner.

5 MS. DREHNER: Thank you, Your Honor.

6 REDIRECT EXAMINATION

7 QUESTIONS BY MS. DREHNER:

8 Q. The allegation in the warrant is not that he  
9 tried to find a job but that he actually didn't find a  
10 job; is that correct?

11 A. Correct.

12 MS. QUINONES: Object, Your Honor, to  
13 leading.

14 THE COURT: Sustained.

15 Q. (BY MS. DREHNER) Is the allegation in the  
16 warrant that he actually didn't find a job, as opposed to  
17 he tried to find a job?

18 A. Yes.

19 Q. You said that he was current on his fees?

20 A. Yes.

21 Q. What are his probation fees?

22 A. \$60 a month supervision fees, 500-dollar fine  
23 plus the court costs. Those are paid in full. Lab fees,  
24 \$5 a month. Those are suspended at this time. \$12.50  
25 for an offender ID card; and \$50 for Crime Stoppers, a

1 one-time payment.

2 Q. And he was able to be current on those even  
3 though he never had a job?

4 A. Correct.

5 MS. DREHNER: Nothing further.

6 RECROSS-EXAMINATION

7 QUESTIONS BY MS. QUINONES:

8 Q. Are you aware that he's married?

9 A. Yes.

10 Q. And his wife is employed?

11 A. That, I don't know. He doesn't mention -- the  
12 report forms don't mention or ask spousal income.

13 Q. Well, if a spouse -- or have you, in your  
14 experience, seen family members assist probationers in  
15 paying fees when they're unable to do so?

16 A. Certainly.

17 Q. So, then, it's plausible that even though he  
18 didn't have a job, if his wife was employed, she could  
19 surely help him pay 60 bucks a month?

20 A. Certainly.

21 MS. QUINONES: I'll pass the witness.

22 MS. DREHNER: Nothing further, Your Honor.

23 THE COURT: All right. Thank you.

24 You may stand down, sir.

25 Ms. Drehner, do you have another witness?