

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-160731
	:	TRIAL NO. B-1601300
Plaintiff-Appellee,	:	
vs.	:	
JEWAN WITCHER,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Jewan Witcher appeals the judgment revoking his community control and imposing a sentence of imprisonment for possessing a firearm and using a controlled substance. In two related assignments of error, Witcher asserts that the evidence did not support the revocation. We find no merit in his assignments of error, and we affirm the trial court’s judgment.

Witcher asserts that the guilty finding was contrary to the manifest weight of the evidence and not supported by sufficient evidence. However, the decision whether to revoke probation is within the trial court's discretion and will not be reversed absent an abuse of discretion. *See State v. Dockery*, 187 Ohio App.3d 798, 2010-Ohio-2365, 933 N.E.2d 1155, ¶ 13 (1st Dist.).

In order to establish a community-control violation, the state must present substantial evidence that the defendant violated the terms of his community control. *See State v. McCants*, 1st Dist. Hamilton No. C-120725, 2013-Ohio-2646, ¶ 11. This court defines substantial evidence “as being more than a scintilla of evidence, but less than a preponderance.” *Id.*

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

Here, the state presented uncontested, substantial evidence that Witcher violated the terms of his community control. When the deputies and probation officers made an unannounced visit, Witcher delayed in opening the door. Upon entrance, the officers found a bullet in his bedroom, noticed his bedroom window was open, retrieved a Glock semi-automatic pistol with an extended magazine containing 15 rounds on the ground outside his bedroom window, and found a box of bullets for the gun in the apartment. The officers also retrieved a photograph of Witcher in his apartment, holding the gun and wearing the same clothing that he had on when arrested.

Additionally, Witcher had a positive urine screen for marijuana on May 26, 2016. Although he now argues that the marijuana could have been consumed before he was placed on probation, Witcher presented no evidence at the hearing to support his claim. Accordingly, we overrule both assignments of error and affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., ZAYAS and MYERS, JJ.**

Enter upon the journal of the court on August 30, 2017  
per order of the court \_\_\_\_\_.

Presiding Judge