

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2025-0550

ANTONIO BASS VELAZQUEZ,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Alachua County.
William E. Davis, Judge.

October 7, 2026

TREADWELL, J.

Appellant Antonio Velazquez appeals the trial court's order finding him in violation of his sex offender probation. He argues that the trial court reversibly erred in admitting evidence derived from his mandatory polygraph test results. Because the evidence was permissible to consider, we affirm.

I.

In May 2022, Appellant pled guilty to attempted sexual battery and received an 18-month prison sentence followed by two years of sex offender probation. Appellant's probation required him to, *inter alia*, undergo periodic polygraph examinations and complete a psychosexual treatment program. In December 2024,

the State filed a violation of probation (“VOP”) affidavit, alleging that Appellant had violated his probation in the following ways: (I) accessing the internet, (II) possessing an unprescribed drug, (III) providing alcohol to a person under the age of 21, (IV)–(V) leaving Alachua County twice without permission, (VI) driving while having a suspended license, (VII) failing to comply with curfew, (VIII) failing to complete his sex offender treatment program, (IX) being in arrears of supervision costs, and (X) being in arrears of drug testing fees. The affidavit recited that the first seven violations were confirmed by Appellant’s admissions to his probation officer, Ann-Marie Brown.

Appellant moved to dismiss the first seven allegations, asserting that his admissions were based on Brown’s questions derived from her review of his polygraph results. Appellant argued that dismissal was warranted because polygraph results cannot be used as evidence under section 948.30(2)(a), Florida Statutes. The trial court denied the motion because the polygraph results were not used directly as evidence; they were used indirectly by Brown to inquire about Appellant’s compliance with the terms of his probation.

Specifically, Brown testified at the VOP hearing that Appellant took a polygraph examination in November 2024, and that she received the results about a month later. She was concerned by some of Appellant’s answers in the polygraph examination, so she investigated further. Brown explained that while meeting with Appellant, she provided him with a legal pad, advised she would ask him questions, and directed him to answer in writing. The trial court admitted, over objection, Appellant’s written answers, which contained his admissions to violating the first seven conditions alleged in the VOP affidavit.

Similarly, Appellant’s treatment provider, Craig Batchelor, testified that he too became concerned after reviewing Appellant’s polygraph results and questioned him. Batchelor revealed, over objection, that Appellant admitted to violating conditions of probation, including smoking marijuana and leaving the county. Batchelor also confirmed that Appellant had not completed his sex offender treatment program.

The trial court ultimately found that Appellant had willfully and substantially violated every condition contained in the VOP affidavit except for the two arrearage allegations. From the bench, the court explained that Appellant's written and verbal admissions were admissible because Brown and Batchelor had only used the polygraph results "indirectly" to prompt their own questioning, not as direct proof of Appellant's violations. The court then modified Appellant's probation by extending it 18 months from the hearing date, ordered six months of electronic monitoring, and authorized early termination upon successful completion of all terms and conditions. Appellant timely appealed.

II.

On appeal, Appellant maintains that the State's evidence of his violations was inadmissible under section 948.30(2)(a), Florida Statutes, which prohibits the use of the "results" of the polygraph examination "as evidence in court to prove that a violation of community supervision has occurred." § 948.30(2)(a), Fla. Stat. (2021). He argues that the method used by Brown and Batchelor of eliciting admissions using the polygraph results impermissibly circumvented the statutory prohibition.

This Court reviews a trial court's evidentiary ruling for abuse of discretion. *Mantecon v. State*, 373 So. 3d 929, 937 (Fla. 1st DCA 2023). A court abuses its discretion when its ruling is based on an erroneous interpretation of the rules of evidence and the relevant case law, which we review de novo. *Id.*

In Florida, the general rule is that polygraph evidence is inadmissible. *Gosciminski v. State*, 132 So. 3d 678, 701 (Fla. 2013). But in *Hostzclaw v. State*, the Florida Supreme Court determined that the general rule did not necessarily exclude "statements made immediately thereafter and as a direct result" of a polygraph examination. 351 So. 2d 970, 971 (Fla. 1977).

Since 1997, sex offender probationers have been required to undergo polygraph examinations as a part of a treatment program. Ch. 97-308, § 3, Laws of Fla. (currently codified at section 948.30(2)(a), Florida Statutes). But section 948.30(2)(a) directs, consistent with the above general rule, that the "results" of those polygraph examinations "shall not be used as evidence in

court to prove that a violation of community supervision has occurred.” § 948.30(2)(a), Fla. Stat. Despite their inadmissibility, however, the polygraph results must be provided to the probation officer and treatment provider. *Id.*; Ch. 2010-92, § 12, Laws of Fla.

Here, the trial court permitted the probation officer, Brown, and the treatment provider, Batchelor, to testify about Appellant’s admissions in response to their questions derived from Appellant’s polygraph results. We conclude that the trial court did not err in doing so.

First, section 948.30(2)(a) only prohibits the “results of the polygraph examination” being “used as evidence.” § 948.30(2)(a), Fla. Stat. It places no evidentiary restriction upon a party’s admissions made separately from the actual polygraph results. The State never attempted to admit the actual polygraph results as evidence, therefore based on its plain language, the prohibition in section 948.30(2)(a) did not apply. Much like in *Hostzclaw*, the trial court permissibly admitted Appellant’s post-examination admissions even though they were “statements made . . . as a direct result” of the polygraph examination. 351 So. 2d at 971; *cf.* *Cassamassima v. State*, 657 So. 2d 906, 911 n.9 (Fla. 5th DCA 1995) (en banc) (explaining that polygraph test results could be used to obtain “admissible evidence that the probationer has, in fact, violated the terms of his probation”).

Second, the prohibition in section 948.30(2)(a) only applies to the use of polygraph results as evidence “in court.” § 948.30(2)(a), Fla. Stat. It does not prohibit a probation officer or treatment provider from using the polygraph results in an investigation. Indeed, it would make little sense to require the polygraph examiner to provide the results to the probation officer and treatment provider, as section 948.30(2)(a) does, if the probation officer and treatment provider could not use those results for their own duties.

Additional textual clues further reveal that polygraph results may be used in a subsequent investigation. Within the text of section 948.30(2)(a), the Legislature expressly stated that a purpose of the polygraph examination is “to reduce the sex offender’s denial mechanisms.” § 948.30(2)(a), Fla. Stat. This purpose would be meaningless in the absence of further inquiry.

Thus, section 948.30(2)(a) plainly allows a probation officer and a treatment provider to investigate based on the polygraph results, and admissions made in response to those investigations are not made inadmissible by section 948.30(2)(a).

Appellant's reliance on *Griffin v. State*, 958 So. 2d 1000 (Fla. 1st DCA 2007), is unavailing. In *Griffin*, the lower court erred by admitting the actual polygraph results. *Id.* at 1001. Here, on the other hand, Appellant's polygraph results were not admitted. Thus, *Griffin* does not advance Appellant's argument.

Finally, even if Appellant's broad construction of section 948.30(2)(a) were correct and excluded his post-examination admissions of the first seven violations, affirmance is still warranted. The State alleged, and Batchelor testified, that Appellant had not completed his sex offender treatment program. Based on that separate violation, the trial court extended Appellant's probation by 18 months but authorized an early termination if he successfully completes his terms and conditions of probation. It is thus "clear from the record" that the court would have imposed the same extension of probation had Appellant's only violation been his failure to complete his treatment, independent of any polygraph-derived admissions. *See Lovett v. State*, 338 So. 3d 1132, 1135 (Fla. 1st DCA 2022). We therefore affirm the trial court's order modifying Appellant's probation.

AFFIRMED.

ROBERTS and RAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Pamela D. Presnell, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Adam B. Wilson,
Assistant Attorney General, Tallahassee, for Appellee.