

ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR10-722

CHASMUN F. MILLER

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 25, 2011

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT
[NO. CR-07-39-1-1]

HONORABLE HAMILTON H.
SINGLETON, JUDGE

AFFIRMED

WAYMOND M. BROWN, Judge

Appellant Chasmun Miller appeals the revocation of his suspended sentence for conspiracy to deliver a controlled substance in case No. CR-07-39-1-1.¹ Miller was sentenced to fifteen years' imprisonment. He argues that the trial court erred in revoking his suspended sentence by failing to comply with Arkansas Code Annotated section 5-4-303(g).² We affirm.³

Miller does not argue that the evidence is insufficient to support his revocation. Rather, he argues that his suspended sentence should not have been revoked because the trial

¹Miller's suspended sentence was also revoked in case No. CR-03-725-1-1; however, that case is not the subject of this appeal.

²(Supp. 2009).

³This is the second time this case is before us. We originally ordered rebriefing due to deficiencies in Miller's addendum. *See Miller v. State*, 2011 Ark. App. 90.

court failed to comply with Ark. Code Ann. § 5-4-303(g). That statute states in pertinent part:

(g) If the court suspends imposition of sentence on a defendant or places him or her on probation, the defendant shall be given a written statement explicitly setting forth the conditions under which he or she is being released.

Miller also argues that the court erred by revoking his suspended sentence since the court did not “have before it proof of written conditions.” The State contends that Miller’s arguments are not preserved for our review.

Before revoking Miller’s suspended sentence on the underlying charge, the following colloquy took place:

THE COURT: Do you have a copy of the terms and conditions of the SIS in both cases[?]

DEFENSE COUNSEL: Your Honor, I think that pertains to one of the cases.

THE COURT: That is just 2003-725.

THE STATE: That is the only one that we have a copy of. It was prepared by probation, they have filed one but it is not in that file.

THE COURT: Well, I have signed the plea agreement that Mr. Miller signed, and the other condition was that he would testify truthfully in court at the trial of the other co-defendants. I don’t know if that happened or not but the plea agreement and the docket entry and the judgment and commitment in 2007-39 also reflects suspended imposition of sentence of 72 months which is consistent with the plea agreement that Mr. Miller signed. So I am granting the petitions to revoke the suspended imposition of sentence in each case.

Miller was sentenced to fifteen years’ imprisonment in case 2007-39. This appeal followed.

Cite as 2011 Ark. App. 392

The State is correct that Miller's arguments are not preserved for our review. Miller's arguments are procedural ones that are waived if not raised at the revocation hearing.⁴ Because Miller failed to raise his arguments at the trial level, we do not address them.⁵

Affirmed.

ROBBINS and MARTIN, JJ., agree.

⁴See *Thomas v. State*, 2010 Ark. App. 650.

⁵*Id.*