

ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR10-1037

THEODIS MITCHELL, JR.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 1, 2011

APPEAL FROM THE ARKANSAS
COUNTY CIRCUIT COURT
[NO. CR-2009-133]

HONORABLE DAVID HENRY,
JUDGE

AFFIRMED

JOHN MAUZY PITTMAN, Judge

Theodis Mitchell, Jr., was tried by a jury and found guilty of multiple criminal offenses. On appeal, he challenges the sufficiency of the evidence to support his convictions of first-degree criminal mischief and attempted commercial burglary. Because these issues have not been preserved for appeal, we affirm the convictions without addressing the merits of the arguments.

In order to preserve for appeal any argument pertaining to the sufficiency of the evidence to support a jury verdict in a criminal case, the defendant must make a specific motion for a directed verdict of acquittal at the close of the evidence presented by the prosecution and again at the close of all of the evidence. Ark. R. Crim. P. 33.1(a) & (c). The failure to make the challenge at the times and in the manner required by the rule will constitute a waiver of any question pertaining to the sufficiency of the evidence. Ark. R. Crim. P. 33.1(c).

Cite as 2011 Ark. App. 397

Here, appellant moved for directed verdicts at the close of the State's case and again at the close of his own proof. However, the State then presented a rebuttal witness, but appellant did not thereafter renew his directed-verdict motions. Under these circumstances, appellant has failed to preserve any sufficiency issue for appeal, and we are precluded from appellate review of the arguments now made. *Doss v. State*, 351 Ark. 667, 97 S.W.3d 413 (2003).

Affirmed.

VAUGHT, C.J., and WYNNE, J., agree.