

## ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR10-845

DAVID TED GREEN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** JUNE 15, 2011

APPEAL FROM THE FAULKNER  
COUNTY CIRCUIT COURT  
[NO. CR 2009-939]

HONORABLE DAVID L. REYNOLDS,  
JUDGE

AFFIRMED

---

**ROBIN F. WYNNE, Judge**

David Ted Green appeals from his conviction for failure to register as a sex offender and being a sex offender living near a school, public park, youth center, or daycare center. Appellant argues that the trial court erred by denying his motion for directed verdict because the State failed to prove that he knowingly failed to register and failed to prove that he knowingly resided within 2000 feet of a school, public park, youth center, or daycare facility. Because appellant failed to preserve his argument for review, his conviction is affirmed.

Appellant was charged by information and amended information with the offenses of failing to register as a sex offender and being a registered sex offender living near a school, public park, youth center, or daycare facility. Appellant stood trial on those charges before a jury. After the State submitted its case, appellant moved for a directed verdict. The trial court

denied the motion. Appellant did not renew his motion at the close of all of the evidence. The jury found appellant guilty on both counts, and the trial court sentenced appellant to seventy-two months' imprisonment. Appellant has now appealed to this court.

The State argues that appellant's challenge to the sufficiency of the evidence produced at trial has not been preserved for appellate review. We agree with the State. In a jury trial, if a motion for directed verdict is to be made, it shall be made at the close of the evidence offered by the prosecution and at the close of all the evidence. Ark. R. Crim. P. 33.1(a) (2011). The failure of a defendant to challenge the sufficiency of the evidence at the times and in the manner required in Rule 33.1(a) will constitute a waiver of any question pertaining to the sufficiency of the evidence to support the verdict. *See* Ark. R. Crim. P. 33.1(c) (2011). While appellant did move for a directed verdict at the close of the State's evidence, he failed to renew his motion at the close of all of the evidence. Appellant failed to follow the requirements of Rule 33.1, and his challenge to the sufficiency of the evidence to support his conviction cannot be considered on appeal.

Affirmed.

VAUGHT, C.J., and PITTMAN, J., agree.