

# ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR 10-1038

ROBERT COLBERT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** SEPTEMBER 7, 2011

APPEAL FROM THE JEFFERSON  
COUNTY CIRCUIT COURT  
[NO. CR-2003-15-2-5]

HONORABLE JODI RAINES  
DENNIS, JUDGE

AFFIRMED

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**ROBIN F. WYNNE, Judge**

Appellant Robert Colbert appeals from his probation revocation, arguing that the circuit court lacked sufficient evidence to find that he violated the terms and conditions of his probation. We affirm.

Appellant pled guilty to charges of forgery and theft of property on April 29, 2003, and received thirty-six months' and twelve months' probation, respectively, to run concurrently. The court ordered appellant to pay restitution and certain court costs and fees, totaling \$1200, by installments of \$44 per month beginning May 1, 2003. The court also ordered appellant to pay a probation service fee of \$25 per month. Other conditions of his probation included not committing any criminal offense punishable by imprisonment; not purchasing, owning, controlling, or possessing any firearm, or being in the company of any person possessing a firearm; and completion of 120 hours of community service.

In 2004, appellant pled guilty to violating the terms of his probation, and his probation was extended for an additional thirty-six months. Appellant violated his probation again in 2008. At that time, the terms and conditions of his previous probation were continued, and the court added a requirement that appellant obtain his GED.

On May 11, 2010, the State filed another petition to revoke appellant's probation. The State alleged that appellant had committed the new offenses of forgery and possession of a firearm by certain persons; was delinquent on making his court-ordered payments; had failed to perform community service; and had failed to obtain his GED. At the revocation hearing, Detective Sharon Reed testified that, during the execution of a search warrant at 716 West 24th Avenue, appellant was discovered in a back bedroom with a shotgun under the mattress where he was sleeping. The detective also discovered \$1030 in counterfeit money in the closet. Detective Reed testified that appellant told her that the home belonged to his sister and that he had just started living there.

The State also presented the testimony of appellant's probation officer, who testified that appellant was delinquent in the amount of \$50 toward his probation-service fees and was delinquent in the amount of \$193 toward restitution. He had seventy-eight hours remaining of the 120 hours of community service, and he had not yet obtained his GED.

Appellant testified that, although the gun was found under the mattress where he was sleeping and the counterfeit money was in the closet, he did not know either was there. He further stated that he was behind on his payments because he was unemployed.

After hearing all of the testimony, the court ruled that appellant had violated the terms and conditions of his probation. The court stated that it was upset by appellant's failure to

obtain his GED but also found his testimony to not be credible. Appellant was sentenced to three years in the Arkansas Department of Correction, and this appeal followed.

Appellant's sole point on appeal is that the State did not present sufficient evidence of his probation violations. In reviewing the sufficiency of the evidence, we view the evidence in the light most favorable to the State and affirm unless the trial court's decision is clearly against the preponderance of evidence. *Bradley v. State*, 347 Ark. 518, 521, 65 S.W.3d 874, 876 (2002); *Reese v. State*, 26 Ark. App. 42, 44, 759 S.W.2d 576, 577 (1988). Because of this relatively low burden, evidence that is insufficient to prove an offense for a criminal conviction may be sufficient to prove an offense for revocation purposes. *Bradley*, 347 Ark. at 521, 65 S.W.3d at 876. The State need only prove that a defendant violated one condition of the suspension in order to revoke. *Ramsey v. State*, 60 Ark. App. 206, 209, 959 S.W.2d 765, 767 (1998). With regard to questions of credibility and weight of the testimony, we defer to the trial court's superior position as fact-finder. *Bradley*, 347 Ark. at 521, 65 S.W.3d at 876.

In the two-page argument section of appellant's brief, appellant points out that the lower court did not specify a timeframe for obtaining his GED and that he had made some progress toward completing his community-service obligation. He admits, however, that his payments were delinquent. Although appellant claimed that he was unable to pay his fees because he was unemployed, we must defer to the trial court's finding that appellant's testimony lacked credibility. *See Bradley, supra*. Because only one violation is necessary in order to revoke probation, *see Ramsey, supra*, appellant's failure to pay fees alone was sufficient to support the court's decision.

Appellant goes on to state that “during the hearing, it was not very persuasive that the Appellant was at fault for the alleged counterfeit money that was found in the closet of his sister’s house, nor was it compelling that he was involved with the firearm that was found,” yet appellant cites no authority and provides no further argument to support this contention. We have held that a mere conclusory statement in a point for appeal constitutes a waiver of the question, and the issue will not be addressed on appeal. *Estacuy v. State*, 94 Ark. App. 183, 188, 228 S.W.3d 567, 571 (2006). Furthermore, we will not consider an argument that presents no citation to authority or convincing argument. *Gaines v. State*, 354 Ark. 89, 101–02, 118 S.W.3d 102, 109 (2003). Therefore, we need not address the sufficiency of the evidence regarding the firearm or counterfeit money.

Affirmed.

MARTIN and HOOFFMAN, JJ., agree.