Cite as 2011 Ark. App. 551

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR11-232

	Opinion Delivered September 21, 2011
CHARLES DELL GRISSOM, JR. APPELLANT	APPEAL FROM THE MILLER COUNTY CIRCUIT COURT [CR-2009-259-1-1]
V.	HONORABLE KIRK JOHNSON, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

DAVID M. GLOVER, Judge

This is an appeal from the revocation of probation. On October 1, 2009, appellant Charles Grissom, Jr., pleaded guilty to theft by receiving and was placed on five years' probation. On October 8, 2010, the State filed a petition for revocation. After a hearing, the trial court found that Grissom had violated the terms of his probation and revoked it, sentencing Grissom to ten years in the Arkansas Department of Correction. Specifically, the trial court found that Grissom had failed to pay his court-ordered financial obligations, court costs, and bailiff fee, even though he was employed during most of the probation and was earning at least $700 per month; that he failed to report to his probation officer as directed; that he was in arrears on payment of his supervision fees; and that Grissom had been charged with the new offense of theft of property based on events that occurred on

March 11, 2010. Grissom now appeals, arguing that the trial court erred by revoking his probation. We affirm.

A trial court may revoke a defendant's probation at any time prior to the expiration of the period of probation if it finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his probation. Ark. Code Ann. § 5-4-309(d) (Repl. 2006). The State need only show that the appellant committed one violation in order to sustain a revocation. *See Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000). In probation-revocation proceedings, the State has the burden of proving that appellant violated the terms of his probation, as alleged in the revocation petition, by a preponderance of the evidence, and this court will not reverse the trial court's decision to revoke probation unless it is clearly against the preponderance of the evidence. *Stinnett v. State*, 63 Ark. App. 72, 973 S.W.2d 826 (1998). We defer to the superior position of the trial court to determine questions of credibility and the weight to be given to the evidence. *Dishman v. State*, 2011 Ark. App. 437; *Craig v. State*, 2010 Ark. App. 309.

At the revocation hearing, Detective Alan Fincher of the Texarkana, Arkansas, Police Department testified extensively—that he executed a warrant on Grissom for theft of property on March 18, 2010, stemming from the theft the week before of four transmissions, two torque converters, and some other metal from a business called Bruce's Salvage; that Corporal Lynn Sanders contacted Ray's Recycling, a local scrap yard, and the owner produced a receipt with Grissom's name and the date March 11 on it that showed Grissom had sold some scrap metal on that date; that the transmissions and torque converters stolen from Bruce's Salvage were recovered; that Officer Dennis Hughes visited

Tri-State Iron and Metal regarding the stolen transmissions and was told that Grissom had tried to sell some transmissions there, though unsuccessfully, because employees at Tri-State recognized the initials on transmissions as belonging to Mr. Bruce; and that he contacted Mr. B's Salvage in Bowie County, Texas, where he was provided a receipt bearing Grissom's name, confirming he sold some transmissions, as well as the notation of "Lumina" on the receipt and a copy of Grissom's photo identification. Finally, Det. Fincher testified that he met with Carl Bruce, who gave him a surveillance DVD (showing someone driving a green Lumina who appeared to be stealing the transmissions) and gave him a cell phone Bruce recovered after the transmissions were stolen (reading "Smiley@portbl," which was known to Det. Fincher to be one of Grissom's known nicknames). Carl Bruce then testified that the value of the transmissions and sheet metal stolen from him in March 2010 was around $1000.

Grissom argues that while a preponderance of the evidence might indicate that he sold stolen property, it did not indicate that he actually stole the property. However, evidence that is insufficient for a criminal conviction may be sufficient for a probation revocation, as the burden on the State is not as great in a revocation hearing. *Bradley v. State*, 347 Ark. 518, 65 S.W.3d 874 (2002). Here, the property was stolen, and Grissom attempted to sell the property to one business and actually did sell the property to two other businesses. A phone bearing his nickname was found at the scene of the crime, and one of the receipts bore the notation "Lumina," which the DVD showed was the type of car driven by the person stealing the property. Given the testimony of Det. Fincher, we cannot say that the trial court's decision to revoke Grissom's probation on the basis that he

committed theft of property is clearly against the preponderance of the evidence. Because the State must prove only one violation to sustain a revocation, *Brock*, *supra*, it is not necessary to address the other bases relied upon for revocation.

Affirmed.

ABRAMSON and MARTIN, JJ., agree.

Jason Horton Law Firm, by: *Jason Horton*, for appellant.

Dustin McDaniel, Att'y Gen., by: *David R. Raupp*, Ass't Att'y Gen., for appellee.