

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR11-892

JOHNNIE ANDREW BROWN, JR.  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

Opinion Delivered February 22, 2012

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
SEVENTH DIVISION,  
[NOS. CR2006-4145, CR2010-587]

HONORABLE BARRY SIMS, JUDGE

AFFIRMED

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## JOSEPHINE LINKER HART, Judge

The circuit court convicted appellant, Johnnie Andrew Brown, Jr., of failure to register as a sex offender and also revoked his probation for second-degree sexual assault. On appeal, Brown first contends that the conviction was not supported by substantial evidence and must be reversed. Second, Brown asserts that the court's revocation was clearly against the preponderance of the evidence, requiring reversal. We affirm both the conviction and the revocation.

Every six months after a sex offender has registered, the Arkansas Crime Information Center (ACIC) must mail a nonforwardable verification-of-residency form to the last reported address of the offender by certified mail. Ark. Code Ann. § 12-12-909(a)(1)(A)(i) (Repl.



2009).<sup>1</sup> The offender must return the form within ten days after receipt. Ark. Code Ann. § 12-12-909(a)(1)(ii)(a).

Brad Cazort, an administrator of the field-services division of the ACIC, testified that Brown initially registered as a sex offender on October 24, 2007, and thus he was required to verify his address on April 24, 2008. According to Cazort, on April 4, 2008, the ACIC sent by certified mail a verification form to Brown's last reported address. The letter was returned with the post office stamping the envelope "Unclaimed." Cazort testified that after April 24, 2008, Brown was delinquent. The State also presented evidence that on October 24, 2007, Brown was advised that six months after his registration, the ACIC would mail to his home a verification-of-residency form and that he would be required to verify his residence within ten days after receipt of the form.<sup>2</sup>

Brown asserts that there was not substantial evidence to support the conviction because there was no proof that he received the forms. The sex-offender-registration statutes provide, and Brown was advised, that the form would be sent six months after his registration. The ACIC in fact sent the form by certified mail to Brown's last reported address, but the letter went unclaimed. The burden of knowing the mandatory nature of the registration scheme is on the sex offender; the registration requirements are mandatory, and failure to comply with

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<sup>1</sup>These statutory provisions were rewritten in 2011.

<sup>2</sup>There was also evidence that on January 1, 2009, he was advised of his responsibility to verify his residence. The ACIC sent a verification form to Brown on January 13, 2009, which was returned stamped as "Return to Sender, No Such Number, Unable to Forward." A third verification form was mailed March 20, 2009, and was returned stamped "Unclaimed."



those duties is a strict-liability offense. *Adkins v. State*, 371 Ark. 159, 264 S.W.3d 523 (2007). Thus, not only was Brown responsible for knowing what was expected of him, but he was also advised that the form would be sent to him and that he was required to return it. He cannot, by simply not claiming the letter, disavow his responsibility to return the verification-of-residency form that was sent by certified mail to his last reported address. Accordingly, we hold that substantial evidence supports the conviction. See *Alexander v. State*, 2011 Ark. App. 525 (setting out the appellate standard of review and holding that substantial evidence supported conviction for failure to verify registration).

The circuit court also revoked Brown's probation for second-degree sexual assault. One of the grounds alleged in the State's amended petition for revocation was that Brown failed to comply with the sex-offender-registration requirements. The State's burden of proof is not as great in a revocation as it is for a conviction, and on appeal the circuit court's findings need only be not clearly against the preponderance of the evidence. See, e.g., *Williams v. State*, 351 Ark. 229, 91 S.W.3d 68 (2002) (setting forth the State's burden of proof in revocation cases). Given that substantial evidence supports the conviction, the circuit court's revocation was not clearly against the preponderance of the evidence.

Affirmed.

HOOFFMAN and BROWN, JJ., agree.

*William R. Simpson, Jr.*, Pub. Defender, by: *Margaret Egan*, Deputy Pub. Defender, for appellant.

*Dustin McDaniel*, Att'y Gen., by: *Karen Virginia Wallace*, Ass't Att'y Gen., for appellee.