

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR11-878

GERALROD KENT WILLIAMS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 25, 2012

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT,
[NO. CR-09-316-4]

HONORABLE MARCIA R.
HEARNSBERGER, JUDGE

AFFIRMED

CLIFF HOOFFMAN, Judge

Appellant Geralrod Kent Williams's suspended sentence was revoked after the trial court found that he had violated the conditions by failing to comply with the sex-offender registration and reporting requirements, maintaining a false address on his driver's license, failing to appear for an arraignment on the new charges, and failing to pay court costs and fines. He was sentenced by the trial court to serve the remainder of his three-year suspended sentence in prison. On appeal, Williams argues that the State failed to provide sufficient evidence that he violated the conditions of his suspended sentence. We affirm.

On March 30, 2010, Williams entered a plea of guilty to the offense of failure to register as a sex offender, for which he received a three-year suspended sentence. He also signed a document outlining the written terms and conditions governing his behavior during the period of his suspended sentence. These conditions included the requirements that Williams not commit a new criminal offense punishable by imprisonment; that he obey all



laws, ordinances, and court orders; that he keep the court clerk informed of his current residential address at all times; that he pay \$170 in court costs and booking fees within 120 days; and that he pay his \$200 indigent-defense fee in \$25 monthly installments starting in June 2010. On December 29, 2010, the State filed a petition to revoke Williams's suspended sentence, alleging multiple grounds for revocation, including that he had been arrested for failing to comply with the sex-offender registration act by not keeping his address current and by maintaining a driver's license with an incorrect address, and that he had failed to appear at an arraignment hearing on these new charges on December 21, 2010. The petition to revoke was amended on February 28, 2011, and the State added allegations that Williams had failed to pay his courts costs and indigent-defense fees.

At the conclusion of the revocation hearing held on April 19, 2011, the trial court found that Williams "willfully, knowingly, and inexcusably" violated the conditions of his suspended sentence as alleged in the petitions to revoke. Williams's suspended sentence was revoked, and he was ordered to be incarcerated for the remainder of the sentence. Williams has timely appealed from this decision.

On appeal, Williams challenges the sufficiency of the evidence supporting each of the grounds for revocation: his failure to appear at the December 21, 2010 arraignment on his new criminal charges; his failure to comply with the sex-offender registration statute by not reporting his change of address; his failure to comply with Ark. Code Ann. § 5-14-130(a), which prohibits a person required to register under the sex-offender registration act from knowingly possessing a driver's license indicating an incorrect permanent physical address for his residence; and his failure to pay his court costs and indigent-defense fees.

The burden is on the State to prove by a preponderance of the evidence that the



defendant inexcusably failed to comply with at least one condition of his suspended sentence. Ark. Code Ann. § 5-4-309(d) (Supp. 2009); *Knotts v. State*, 2012 Ark. App. 121. On appeal, the trial court's findings will be upheld unless they are clearly against the preponderance of the evidence. *Knotts, supra*. Where multiple offenses are alleged as the basis for revocation, the trial court's finding that revocation is justified must be affirmed if the evidence is sufficient to establish that the appellant committed any one of the offenses. *McDowell v. State*, 2011 Ark. App. 674. Because a determination of the preponderance of the evidence turns heavily on questions of credibility and weight to be given to the testimony, the appellate courts defer to the trial court's superior position in this regard. *Knotts, supra*.

We first discuss the evidence supporting the trial court's finding that Williams inexcusably failed to pay his court costs and fees. The State retains the burden to show that the defendant's failure to pay was inexcusable; however, once the State provides evidence of nonpayment, such as through the admission of a ledger sheet, the burden then shifts to the defendant to provide a reasonable excuse. *Reese v. State*, 26 Ark. App. 42, 759 S.W.2d 576 (1988).

The judgment and disposition order entered on April 7, 2010, as well as the written conditions of Williams's suspended imposition of sentence entered on March 30, 2010, reflect that he was ordered to pay \$170 in court costs and booking fees within 120 days and \$200 to the indigent-defense fund, payable in \$25 monthly installments, beginning on June 1, 2010. At the revocation hearing, Cindy Spakes, who was in charge of collecting court costs for the Garland County Sheriff's Office, testified that Williams had not made any payments toward



his \$170 court costs and fees and that he still owed the entire balance. In addition, Debbie Gregor, the bookkeeper for the Garland County Circuit Clerk, testified that Williams had not made any payments toward his \$200 indigent-defender fee. A certified ledger sheet reflecting this lack of payment was also introduced into evidence.

Williams testified that he thought that the fines he had been paying to the district court on an unrelated traffic offense satisfied his obligations in this case. He also claimed that he had lost one of his jobs and that he only received his salary for his job as a campus recruiter once per month. He admitted, however, that he was making between \$400 and \$700 per month from the recruiting job and that he had the means to pay his fines.

As the State contends, the conditions of Williams's suspension clearly state that the court costs and fees should be paid to the Garland County Sheriff's Office and that the indigent-defense fees should be paid to the Garland County Circuit Clerk. The testimony provided by Spakes and Gregor, as well as the ledger sheet that was introduced, established that Williams failed to make any payments toward either his court costs or his indigent-defense fees. The trial court found Williams's excuse that he was confused about whether his payments to the district court in another case satisfied his obligations not to be truthful or believable, and we defer to the trial court's determination of credibility. *Knotts, supra*. Confusion about where to make one's payments has also previously been rejected by this court as a reasonable excuse for nonpayment. See *Burkhart v. State*, 2010 Ark. App. 462, at 5. The trial court noted that Williams was a college-educated person and that he could not claim that he was unaware of the difference between a district court and circuit court. The



trial court further found that Williams had the ability to pay his fines and costs, as he had a job and had recently bought a vehicle, yet he had made no payments at all.

Based on this evidence, the trial court's finding that Williams inexcusably violated the conditions of his suspended sentence by failing to pay his fines and costs is not clearly against the preponderance of the evidence. As only one violation of the conditions needs to be proven to support the revocation, *Knotts, supra*, we affirm on this basis and find it unnecessary to address Williams's arguments regarding the other violations alleged by the State.

Affirmed.

ROBBINS and MARTIN, JJ., agree.

Darren A. Gibbs, for appellant.

Dustin McDaniel, Att'y Gen., by: *Christian Harris*, Ass't Att'y Gen., for appellee.