

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR11-1211

BILLY GENE MORGAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 23, 2012

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-05-1013]

HONORABLE RANDY F. PHILHOURS,
JUDGE

AFFIRMED

ROBIN F. WYNNE, Judge

Billy Gene Morgan appeals from the revocation of his probation. Following a revocation hearing, the circuit court found that Morgan inexcusably failed to pay his fine and costs. The circuit court also found that he violated state law by possessing methamphetamine and hydrocodone. Morgan only challenges the finding that he violated state law. We affirm the judgment of the trial court.

Morgan pled guilty to a charge of possession of a controlled substance with intent to sell or deliver on December 21, 2005. He was sentenced to 120 months' supervised probation. He was also ordered to pay a \$1000 fine and \$750 in costs. Among the conditions of Morgan's probation was a requirement that he not violate any state, federal, or municipal law.

The State filed a petition to revoke Morgan's probation on November 19, 2010. In the petition, the State alleged that Morgan violated the conditions of his probation by (1)



failing to pay his fines, costs, and fees; (2) failing to notify the sheriff of his current address and employment; (3) possessing methamphetamine; (4) possessing hydrocodone; and (5) driving with a suspended driver's license. At the hearing on Morgan's petition, Debra Wiseman with the Crittenden County Sheriff's Department testified that Morgan had made no payments toward his fine and costs. The State introduced a ledger showing that Morgan made no payments.

After the testimony concluded, the trial court revoked Morgan's probation. The trial court sentenced Morgan to 180 months' imprisonment with an additional sixty months' suspended imposition of sentence. This appeal followed.

In a revocation hearing, the State is obligated to prove by a preponderance of the evidence a violation of a term or condition of the defendant's probation. *Scroggins v. State*, 2012 Ark. App. 87, 389 S.W.3d 40. Where the alleged violation involves the failure to pay ordered amounts, after the State has introduced evidence of nonpayment, the burden shifts to the probationer to provide a reasonable excuse for the failure to pay. *Id.* It is the probationer's obligation to justify his failure to pay, and this shifting of the burden of production provides an opportunity to explain the reasons for nonpayment. *Id.* The State need only prove one violation in order to support revocation. *Cheshire v. State*, 80 Ark. App. 327, 95 S.W.3d 820 (2003).

In his brief, appellant challenges only the trial court's finding that he possessed methamphetamine and hydrocodone. He does not challenge the trial court's finding that he failed to pay his fine and costs as ordered. When a trial court expressly bases its decision on



Cite as 2012 Ark. App. 357

multiple, independent grounds, and an appellant challenges only one of those grounds on appeal, we can affirm without addressing the merits of the argument. *See Pugh v. State*, 351 Ark. 5, 89 S.W.3d 909 (2002). Because Morgan failed to challenge both of the grounds relied upon by the trial court in revoking his probation, the judgment of the trial court is affirmed.

Affirmed.

PITTMAN and HART, JJ., agree.

C. Brian Williams, for appellant.

Dustin McDaniel, Att’y Gen., by: *Kathryn Henry*, Ass’t Att’y Gen., and *John A. Mallory, Jr.*, Law Student Admitted to Practice Pursuant to Rule XV of the Rules Governing Admission to the Bar of the Supreme Court under the Supervision of *Kathryn Henry*, Ass’t Att’y Gen., for appellee.