

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR12-227

D'ANTHONY WILLIAMS
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered August 29, 2012

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT
[CR-2009-131-1 & CR-2009-517-1]

HONORABLE BERLIN C. JONES,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

DAVID M. GLOVER, Judge

This is a no-merit appeal from the revocation of D'Anthony Williams's probation. On July 7, 2010, Williams pled guilty to theft by receiving and residential burglary. He was originally placed on three years' probation for each offense, with the periods of probation running concurrently. On April 12, 2011, the State filed a petition to revoke Williams's probation; on May 10, 2011, Williams admitted that he had violated the terms of his probation, and the trial court reinstated probation for a period of four years on each offense, to run concurrently. An order reflecting this new period of probation was entered on May 25, 2011.

On October 11, 2011, the State filed a second petition for revocation, alleging that Williams had again violated his probation by giving an address that was a vacant house; by



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failing to report in June, July, August, and September 2011; by being delinquent in payment of fees; and by failing to complete his community-service hours. After a hearing on December 13, 2011, the trial court revoked Williams's probation and ordered him to serve seven years' incarceration for each offense, with the sentences to run consecutively.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(k) of the Rules of the Arkansas Supreme Court and Court of Appeals, Williams's counsel has filed a motion to withdraw on the grounds that the appeal is wholly without merit. Counsel's motion was accompanied by a brief referring to everything in the record that might arguably support an appeal, including a list of all rulings adverse to Williams made by the trial court on all objections, motions, and requests made by either party, with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The clerk of our court furnished Williams with a copy of his counsel's brief and notified him of his right to file pro se points, but Williams has not filed any points.

In revocation proceedings, the State has the burden of proving that the appellant violated the terms of his probation, as alleged in the revocation petition, by a preponderance of the evidence; this court will not reverse a trial court's decision to revoke unless it is clearly against the preponderance of the evidence. *Stinett v. State*, 63 Ark. App. 72, 973 S.W.2d 826 (1998). 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). The appellate courts defer to the trial court's superior position to determine



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credibility and the weight to be accorded testimony. *Stultz v. State*, Ark. App. 204, 212 S.W.3d 42 (2005).

Here, Williams's probation officer testified that Williams had last reported to the probation office in May 2011. She also testified that Williams had completed only six hours of community service out of the 120 hours that he was required to perform; that he was not in compliance with his payments; and that the house at the address that Williams had given was vacant.

Dana Woodus, Williams's mother, testified that Williams lived with her at the address given to the probation officer. She also stated that Williams could not work because he had been shot in the thigh.

Williams testified that he lived at the address provided to the probation office. However, he admitted that he had not reported for community-service work since May 2011, stating that "they did not bring it up to me this time," but acknowledging that he understood that it was his responsibility to ask what he needed to do with respect to completing his community service. Williams said that he reported to the probation office when his probation was restarted, but that no one knew who his probation officer was; however, he offered no explanation for why he did not continue to report.

Williams admitted that he had not completed his community-service work as ordered, and he offered no reason why he had not reported to the probation office since



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May 2011. Either of these constitutes sufficient evidence to support the revocation of Williams's probation.

In addition to the revocation of probation, there were two adverse rulings during Dana Woodus's testimony. Defense counsel asked Woodus if she could give the trial court any explanation as to why Williams did not report in June, July, August, or September to the probation office. Woodus responded, "Because, seriously, it's the lack of knowledge and education and that everything is not adjusted well, and I would ask that it be readjusted so that he understands—" At that point, the State objected on the basis of a nonresponsive answer, and the trial court sustained the objection. Defense counsel then again asked Woodus if she could give any explanation for why Williams did not report in June, July, and August, and the State objected on the basis that it called for speculation, which the trial court also sustained.

Neither of these rulings was in error. Our court will not reverse a trial court's evidentiary ruling unless it abused its discretion in making the ruling. *Williams v. State*, 2012 Ark. App. 310, 420 S.W.3d 487. Clearly, Woodus's first answer was not responsive to defense counsel's question. Furthermore, Rule 602 of the Arkansas Rules of Evidence requires that a person must have personal knowledge of a matter about which he testifies. The trial court did not abuse its discretion in sustaining the State's objections. Additionally, these objections were raised concerning testimony regarding Williams's failure to report—even if it could be said that the trial court abused its discretion in



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sustaining the objections, Williams's admitted violation of his failure to complete his community-service hours would still support the revocation of his probation.

From a review of the record and the brief presented to this court, Williams's counsel has complied with the requirements of Rule 4-3(k) of the Rules of the Arkansas Supreme Court and Court of Appeals. Counsel's motion to be relieved is granted and Williams's revocation is affirmed.

Affirmed; motion granted.

WYNNE and BROWN, JJ., agree.

Potts Law Office, by: *Gary W. Potts*, for appellant.

No response.