

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR12-116

RAYMOND MICHAEL HILL
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered September 19, 2012

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-2010-748]

HONORABLE JOHN N.
FOGLEMAN, JUDGE

AFFIRMED

JOHN MAUZY PITTMAN, Judge

This is an appeal from an order revoking appellant's probation. Appellant argues that the evidence is insufficient to support the trial court's finding that he inexcusably violated the conditions of his probation by failing to report to his probation officer. We affirm.

In a hearing to revoke probation, the State must prove by a preponderance of the evidence that the defendant inexcusably violated a condition of his probation. Ark. Code Ann. § 16-93-308(d) (Supp. 2011). The State need only prove that the defendant committed one violation of the conditions. *Blakes v. State*, 2009 Ark. App. 451. We will reverse an order of revocation only if the trial court's findings are clearly against the preponderance of the evidence. *Id.* We defer to the trial court's superior opportunity to assess the credibility of the witnesses in determining where the preponderance of the evidence lies. *See id.*

Here, the record shows that appellant reported to his probation officer in West Memphis but failed to report to his new probation officer, Tammaula Lee, when he moved



to Forrest City. Ms. Lee testified that she received appellant's file on September 2, 2010, but failed in her initial attempt to contact appellant concerning his reporting schedule. She said that she mailed a letter to appellant's new address on October 26 to schedule a meeting for November 4. Appellant did appear at the probation office on November 4 and was given a calendar with future visits marked for December 6, 2010, and January 3, 2011, but he failed to report on either of those days. Appellant testified that he missed one visit because his grandmother had a doctor's visit that day. He claimed that he did appear for the other visit but Lee was not in the office when he arrived.

The trial court was not required to believe appellant's excuses for his failure to comply with the conditions of his probation, *Owens v. State*, 2009 Ark. App. 876, particularly given that appellant was the person most interested in the outcome of the proceeding. *Reed v. State*, 2010 Ark. App. 502. The question of whether the testimony of appellant or that of his probation officer was more credible was an issue for the trial court to determine, and we cannot, on this record, say that the trial court clearly erred in finding appellant's failure to report to be inexcusable.

Affirmed.

GLADWIN and ROBBINS, JJ., agree.

C. Brian Williams, for appellant.

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