

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR12-467

JASON WINSTON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** OCTOBER 31, 2012

APPEAL FROM THE CRITTENDEN  
COUNTY CIRCUIT COURT,  
[NO. CR-07-161]

HONORABLE RALPH WILSON, JR.,  
JUDGE

AFFIRMED

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**JOHN B. ROBBINS, Judge**

Appellant Jason Winston was on ten years of suspended imposition of sentence commencing in 2007 in exchange for his pleading guilty to being a felon in possession of a firearm. In 2011, the State filed a petition to revoke. Among the alleged violations, appellant was accused of (1) failing to pay fines and court costs as agreed, and (2) committing aggravated robbery and being a felon in possession of a firearm. After a revocation hearing conducted in February 2012, the trial court found that appellant violated the terms of his suspended imposition of sentence upon both the failure to pay fines and costs and the failure to live a law abiding life. On appeal, appellant contends that the trial court's decision to revoke is clearly against the preponderance of the evidence because the proof was lacking that he committed the two crimes. He does not contest the trial court's finding that he failed to pay fines and costs as agreed. Because he does not contend that the trial court erred on each independent basis for revocation, we affirm.



Cite as 2012 Ark. App. 608

In a revocation case, the State has the burden to prove by a preponderance of the evidence that the defendant has inexcusably violated at least one condition of probation. *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004). Our court will reverse only if the trial court's findings are clearly erroneous. *Gossett v. State*, 87 Ark. App. 317, 191 S.W.3d 548 (2004). We defer to the trial court's credibility determinations. *Id.*

At the hearing, an employee of the Crittenden County Sheriff's Office, Deborah Wiseman, testified that her duties included collection of court costs. Wiseman stated that appellant agreed to begin \$50 monthly payments sixty days after his release from custody on another charge. A parole officer testified that appellant was released from custody on January 14, 2009. Wiseman stated that as of February 2012, he had not paid anything. Wiseman reported his outstanding court-costs balance at \$750. Appellant testified that he prioritized his two children and his home over payment of any court-related fines and costs.

As to the criminal charges, a Marion police officer testified that he investigated a robbery at Tops Bar-B-Q on the night of November 7, 2009. Two female employees, Kim Eddington and Amanda Hearod, reported being robbed at gunpoint by a slender, black male. Money was taken from the restaurant's cash drawer. During questioning, Ms. Hearod admitted to being involved in the robbery, planning it with appellant three weeks before the robbery took place. A search of appellant's residence revealed \$400 in appellant's camouflage jacket. Appellant's brother also implicated appellant in the planned robbery. Appellant fled the state but was apprehended in Kansas. Appellant contends on appeal that the State failed to corroborate his purported accomplice, Ms. Hearod, and that this requires that his



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revocation be reversed. We disagree. The evidence set forth above amply corroborates Ms. Hearod's testimony; in addition, evidence that is insufficient to sustain a criminal conviction may be sufficient for purposes of revocation because there is a lesser burden of proof on the State. *Cannon v. State*, 2010 Ark. App. 698, 379 S.W.3d 561.

However, appellant's failure to attack the finding that he violated his conditions by failing to pay as required is itself dispositive of this appeal. Because appellant left this independent ground for revocation unchallenged on appeal, the circuit court's revocation must be affirmed. See *Pugh v. State*, 351 Ark. 5, 89 S.W.3d 909 (2002); *Murry v. State*, 2010 Ark. App. 782; *Juarez v. State*, 2010 Ark. App. 752; *May v. State*, 2009 Ark. App. 608.

Affirmed.

ABRAMSON and HOOFFMAN, JJ., agree.

*C. Brian Williams*, for appellant.

*Dustin McDaniel*, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.