

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR 10-580

SHARON COLGAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 2, 2011

APPEAL FROM THE BAXTER
COUNTY CIRCUIT COURT
[NO. CR-2008-104-4]

HONORABLE GORDON WEBB,
JUDGE

AFFIRMED

ROBIN F. WYNNE, Judge

Appellant Sharon Colgan appeals from her misdemeanor convictions in Baxter County Circuit Court for violating several city ordinances. Specifically, she argues that the convictions were not supported by sufficient evidence. Because appellant's arguments were not preserved for review, we affirm.

Appellant owns Bay Breeze Resort in Lakeview, Arkansas, a motel that has been out of business for several years. On November 21, 2007, appellant received citations for violating three city ordinances: violation of the building code, failure to maintain or remove an outdoor sign, and keeping inoperable motor vehicles on the property. Appellant was found guilty of the violations in district court and appealed to the Baxter County Circuit Court. At the conclusion of the bench trial before the circuit court, appellant's attorney made a closing argument but did not make any motion for directed verdict or dismissal.

The circuit court found that appellant had been in noncompliance with each of the ordinances for a period of at least thirty days and ordered her to pay a fine of \$100 per day for each violation—a total of \$9000. However, if appellant brought the property within compliance by March 1, 2010, the court would suspend ninety percent of all fines imposed. The court entered its judgment on January 21, 2010. Appellant filed a motion for reconsideration on February 19, 2010, which was subsequently denied, and filed her notice of appeal on March 15, 2010.

Appellant argues on appeal that there was insufficient evidence to support the circuit court's judgment against her. In order to preserve a challenge to the sufficiency of the evidence in a bench trial, a criminal defendant must make a specific motion for dismissal or for directed verdict at the close of all evidence. Ark. R. Crim. P. 33.1(b)–(c) (2010). This rule is strictly construed. *Grube v. State*, 2010 Ark. 171, at 9, 368 S.W.3d 58, 62–63; *Elkins v. State*, 374 Ark. 399, 402, 288 S.W.3d 570, 573 (2008). Statements made at the conclusion of a trial which are in the nature of a closing argument but which do not include a request for dismissal of charges are not considered to be a motion for dismissal or directed verdict. *Grube*, 2010 Ark. 171, at 12–13, 368 S.W.3d at 64; *see also Gazaway v. State*, 2010 Ark. App. 776, at 2.

Here, appellant failed to make a motion for dismissal during the bench trial. Although her attorney made a closing argument, at no time did he request that the charges be dismissed. Therefore, we hold that appellant's challenge to the sufficiency of the evidence was not preserved for appellate review, and we must affirm.

Affirmed.

ROBBINS and GLOVER, JJ., agree.