Cite as 2018 Ark. App. 130

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CR-17-656

	Opinion Delivered: February 14, 2018
CONTRAIL LAMON CRISWELL APPELLANT	APPEAL FROM THE CONWAY COUNTY CIRCUIT COURT [NO. 15CR-14-242]
V.	
STATE OF ARKANSAS APPELLEE	HONORABLE JERRY DON RAMEY, JUDGE
	AFFIRMED

WAYMOND M. BROWN, Judge

Appellant Contrail Criswell pled no contest to sex offender failing to register, a Class D felony on September 9, 2015. He received a five-year suspended imposition of sentence (SIS). The State filed a petition to revoke appellant's SIS on November 15, 2016, alleging that appellant violated the terms of the SIS by failing to register. The revocation hearing was held on April 19, 2017, and the Conway County Circuit Court revoked appellant's SIS and sentenced him to five years' imprisonment at the Arkansas Department of Correction (ADC). Appellant argues on appeal that the trial court erred by admitting hearsay exhibits into evidence under the business-records exception. We affirm.

Officer Alex Campbell of the Conway County Sheriff's Office testified that his duties included maintaining records of the sex offenders in Conway County and maintaining supervision of those offenders. He stated that appellant had signed a sex offender verification

form on March 7, 2016, listing his residence as 3786 Highway 64 in Menifee, Arkansas. The form was admitted into evidence without objection. However, when the State attempted to admit exhibits seven and eight[1] into evidence through Officer Campbell, appellant objected to the admission based on hearsay. The court admitted the exhibits over appellant's objections after Officer Campbell testified that he receives documentation from the ADC in the regular course of business in order to maintain a record of the sex offenders in Conway County. He stated that there was nothing to indicate that the documents were not accurate reflections of appellant's status as a sex offender. Officer Campbell testified that his office sometimes does periodic checks to determine whether sex offenders are at the locations listed in their registration.

Lester Walls, appellant's father, testified that although appellant used his address when registering in March 2016, appellant was not living with him at that time.

Investigator Carl Boyce of the Conway County Sheriff's Office testified that he went to the address listed on appellant's registration and that appellant was not anywhere on the premises. He stated that the location on the premises Walls indicated was occupied by appellant did not appear that it had been occupied recently. He said that he subsequently located appellant at another address which was not listed on any of appellant's registrations.

[1]Exhibit seven is a document from the ADC stating appellant's risk level, a description of his crime, and other information pertaining to appellant's incarceration following his conviction for first-degree sexual abuse. The document indicated that appellant was paroled on May 3, 2010. Exhibit eight is a document in which appellant acknowledged that he had been notified to contact the Morrilton Police Department after his release. It was dated May 29, 2008.

The court found appellant guilty of violating the terms of his SIS and sentenced him to five years in the ADC. Appellant filed a timely notice of appeal. This appeal followed.

To revoke a suspended sentence, the trial court must find by a preponderance of the evidence that the defendant inexcusably violated a condition of that suspension.[2] The State bears the burden of proof but need only prove that the defendant committed one violation of the conditions in order to sustain a revocation.[3] The State's burden is not as great in a revocation hearing as it is in a criminal proceeding; therefore, evidence that is insufficient for a criminal conviction may be sufficient for revocation.[4] We do not reverse a trial court's findings on appeal unless they are clearly against the preponderance of the evidence.[5] Because the determination of a preponderance of the evidence turns on questions of credibility and the weight to be given testimony, we defer to the trial court's superior position to resolve those matters.[6]

Appellant's sole argument is that the trial court erred by admitting exhibits seven and eight into evidence because they were hearsay. It is well settled that the Arkansas Rules of Evidence, including the rules regarding hearsay, do not strictly apply in revocation hearings.[7]

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[2]*Peterson v. State*, 81 Ark. App. 226, 100 S.W.3d 66 (2003).

[3]*Haley v. State*, 96 Ark. App. 256, 240 S.W.3d 615 (2006).

[4]*Bedford v. State*, 96 Ark. App. 38, 237 S.W.3d 516 (2006).

[5]*Sisk v. State*, 81 Ark. App. 276, 101 S.W.3d 248 (2003).

[6]*Peterson*, *supra*.

[7] *Jones v. State*, 31 Ark. App. 23, 786 S.W.2d 851 (1990).

Therefore, there is no reversible error. Even if we had found error, the error would have been harmless because the testimony indicated that appellant gave an address he did not reside at when registering in March 2016, and he was later found living at another address. This testimony was enough to support the court's revocation of appellant's SIS. Accordingly, we affirm.

Affirmed.

GLADWIN and WHITEAKER, JJ., agree.

The Lane Firm, by: *Jonathan T. Lane*, for appellant.

Leslie Rutledge, Att'y Gen., by: *Ashley Argo Priest*, Ass't Att'y Gen., for appellee