NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR08-1000

	Opinion Delivered May 20, 2009
ROBERT E. DUGAN APPELLANT	APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT [NO. CR-2006-544]
V.	HONORABLE J. MICHAEL FITZHUGH, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant pled guilty in 2006 to being a felon in possession of a firearm, and imposition of sentence was suspended for a period of five years. A petition to revoke was filed in 2008 alleging that appellant violated the conditions of his suspension by being convicted of public intoxication and third-degree domestic battery and, in addition, by committing the offense of residential burglary. After a hearing, the trial court found that appellant had violated the conditions of his suspended imposition of sentence, revoked the suspension, and sentenced appellant to three years' imprisonment to be followed by three years' suspended imposition of additional imprisonment. Appellant argues that there was insufficient evidence to support the trial court's finding that he violated the conditions of his suspension. We affirm.

In revocation proceedings, the burden is on the State to prove by a preponderance of the evidence that the defendant has violated a condition of his suspension. *Gossett v. State*, 87 Ark. App. 317, 191 S.W.3d 548 (2004). In order for a defendant's suspended sentence to be

revoked, the State need only prove that he committed one violation of the conditions thereof. *Ross v. State*, 22 Ark. App. 232, 738 S.W.2d 112 (1987). Where the sufficiency of the evidence is challenged on appeal from an order of revocation, we will not reverse the trial court's decision unless its findings are clearly against the preponderance of the evidence; in making our review, we defer to the superior position of the trial court to determine questions of credibility and the weight to be given to the evidence. *Id.*

Despite appellant's argument to the contrary, there was sufficient evidence presented to support a finding that he violated the conditions of his suspended imposition of sentence by committing the offense of third-degree domestic battery. A person commits domestic battery in the third degree by purposely causing physical injury to a family or household member. Ark. Code Ann. § 5-26-303(a)(1) (Supp. 2007). For purposes of this statute, a family or household member includes persons who have previously resided with each other. Ark. Code Ann. § 5-26-302(2)(F) (Repl. 2006). Appellant admitted that he had previously resided with Marsha Ansaldo, the mother of his girlfriend. Appellant also admitted that he pushed Mrs. Ansaldo by the chin, shoving her into a wall. Mrs. Ansaldo testified that appellant grabbed her jaw and repeatedly smashed her against a wall. She stated that she previously suffered an injury that resulted in insertion of steel plates to hold her jaw together, and that appellant shoved her with sufficient force to break one of the steel plates, which would need to be surgically removed and replaced. When asked at the hearing, appellant candidly admitted that he pled no contest to criminal charges arising from that incident and agreed that his actions were not in keeping with the terms of his suspended sentence.

Appellant argues that, because the State alleged that he violated the conditions of his suspension by being convicted of third-degree domestic battery, the proof recited above was insufficient because the State failed to introduce the judgment of conviction or other document to show that appellant's plea of no contest was with benefit of counsel. It is true that an uncounseled district-court conviction cannot be used for the purpose of revoking a suspended sentence. *Alexander v. State*, 258 Ark. 633, 527 S.W.2d 927 (1975). However, it is likewise true that proof of the *facts* giving rise to the district court conviction may be sufficient to revoke the suspended sentence. *Id.* Here, the State presented evidence of the facts giving rise to the district court conviction sufficient to revoke the suspended sentence, and we cannot say that the trial judge clearly erred in believing them. *Haley v. State*, 96 Ark. App. 256, 240 S.W.2d 615 (2006). Because a single violation of the conditions of suspension is sufficient to support revocation, *see Ross v. State*, *supra*, we need not address appellant's remaining arguments.

Affirmed.

ROBBINS and GRUBER, JJ., agree.