

**ARKANSAS COURT OF APPEALS**

DIVISION II  
No. CACR 09-1216

JESSIE MARRELL DOUGLAS  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

**Opinion Delivered** MAY 5, 2010

APPEAL FROM THE SEBASTIAN  
COUNTY CIRCUIT COURT  
[NOS. CR-04-723, CR-04-1461C]

HONORABLE JAMES O. COX,  
JUDGE

AFFIRMED

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**JOHN B. ROBBINS, Judge**

Appellant Jessie Marrell Douglas appeals the revocation of his suspended imposition of sentence (SIS), entered by the Sebastian County Circuit Court after a revocation hearing. Appellant was on SIS after pleading no contest to several drug-related crimes. Appellant was accused of violating the terms of his SIS by committing residential burglary and third-degree battery against Brittany Golden. The circuit judge found that the State proved by a preponderance of the evidence that appellant committed those offenses. Appellant argues on appeal that the revocation must be reversed because there is insufficient evidence that he committed those crimes. He contends that the victim was a liar and falsely accused him. We disagree and affirm the revocation.

A circuit court may revoke a suspension or probation if it finds by a preponderance of the evidence that the appellant inexcusably failed to comply with a condition of that

suspension or probation. Ark. Code Ann. § 5-4-309(d) (Supp. 2009). The State bears the burden of proof at the trial court level. See *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004). The trial court's findings are given deference because determinations of the preponderance of the evidence turn heavily on questions of credibility and the weight of the evidence. Compare *Williams v. State*, 351 Ark. 229, 91 S.W.3d 68 (2002). We reverse only if the trial court's decision is clearly against the preponderance of the evidence. *Bradley v. State*, 347 Ark. 518, 65 S.W.3d 874 (2002). We have reviewed this appeal under these standards, and we affirm the trial court's decision.

Here, the State presented the testimony of the victim, Brittany Golden, who testified that Douglas appeared at her apartment in Van Buren on February 22, 2009, and forced his way inside. Golden explained that Douglas's girlfriend Tameca Pate and his infant daughter were visiting, but Douglas wanted Pate and the baby to leave with him. Golden told him to get out, but Douglas began to fight with her instead. She testified that Douglas pushed her, hit her head and face, and choked her. Then, Douglas and Pate left with the baby. Golden called the police.

A Van Buren police officer, John Cao, testified that he came to Golden's apartment, and he saw injuries to Golden's face, bruises and marks on her neck, and blood on her shirt. Cao said Golden was beaten up "pretty bad." Cao observed that the door lock was broken, the apartment was in disarray, and there was a hole in the wall behind her bedroom door.

Cao said Pate was uncooperative in his investigation, and no one from his department was able to contact Douglas to obtain a statement from him.

Golden admitted that Douglas was her rival for Pate's affection. She also admitted to having a prior felony for overdraft, and she admitted to having falsely accused Pate of assault. But, Golden insisted that her testimony before the trial court that day was truthful.

Pate testified that Golden had made up this story because she was jealous of Douglas. Pate said Golden was not a very truthful person. Pate and Golden had shared a romantic relationship in the past, but at present, Pate loved Douglas. Pate agreed she did not want to see anything bad happen to Douglas. She testified that police came to see her after this alleged incident, that she let them check her apartment, and that she told them Douglas was in Little Rock. Douglas testified that at the time of the alleged attack, he was required by his parole to live in Little Rock, and he was in Little Rock, so he could not have committed this crime.

The judge found that even though Golden might have had a motive to lie, and she had lied in the past, she was unlikely to beat herself up and call the police. The judge also noted the physical evidence of the apartment's condition upon the officer's arrival, and Pate's likelihood to shade the truth for Douglas. The judge found Douglas not to be very candid with the court. Revocation followed, and Douglas appeals.

First, it must be remembered that the burden of proof, while remaining on the State, is at a lower threshold in revocation proceedings than in a criminal trial. Thus, evidence that is insufficient for a criminal conviction may be sufficient for revocation of probation or

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suspended imposition of sentence. See *Jones v. State*, 355 Ark. 630, 144 S.W.3d 254 (2004).

And, the fact-finder may consider the proof in light of experiences in the affairs of life and common knowledge. See *Farrelly v. State*, 70 Ark. App. 158, 15 S.W.3d 699 (2000); *Holmes v. State*, 15 Ark. App. 163, 690 S.W.2d 738 (1985). Lastly, and most importantly for this appeal, the fact finder resolves questions of credibility and conflicts in testimony. *Barbee v. State*, 346 Ark. 185, 56 S.W.3d 370 (2001).

The trial court had before it evidence that met the preponderance burden of proof to show that Douglas unlawfully entered Golden's apartment and inflicted physical injuries upon her.

We affirm the revocation.

KINARD and MARSHALL, JJ., agree.