

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR10-524

CONYA GOODMAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered NOVEMBER 10, 2010

APPEAL FROM THE DREW
COUNTY CIRCUIT COURT
[NOS. CR-03-255-1, CR-04-83-1,
CR- 05-169-1]

HONORABLE SAM POPE, JUDGE

AFFIRMED

KAREN R. BAKER, Judge

On September 12, 2005, Conya Goodman entered a guilty plea to three counts of violating the Arkansas Hot Check Law. The Drew County Circuit Court sentenced Goodman to ten years' supervised probation and, as one of the conditions of her probation, ordered her to pay restitution in the amount of \$7,373.61. On November 9, 2006, the State filed a petition to revoke Goodman's probation for failure to pay restitution as ordered. The State filed an amended revocation petition on January 19, 2007, alleging that in addition to the failure to pay restitution, Goodman had also failed to submit to drug or alcohol testing, failed to report to her probation officer, failed to pay \$450 in court costs, and failed to pay a \$250 DNA fee, all of which were stated conditions of the September 12, 2005 order and conditions of supervised probation. At the February 1, 2010 revocation hearing, Scott

McDonald, a probation officer with the Arkansas Department of Community Correction, testified that Goodman missed a large number of meetings prior to her case being assigned to him in May 2009, and that he had not met with her since being assigned to her case. Further, Goodman had not contacted his office to explain why she was unable to meet with her probation officer. Goodman also testified that the last meeting she remembered was in July 2008. Evidence was introduced at the hearing showing that restitution had been paid in full through a bond posted by Goodman's friends and family after her arrest on the probation-revocation charge. The State also introduced into evidence eighteen checks written by Goodman after she was placed on probation as evidence of a new offense. The circuit court granted the State's petition based on violations of condition number 1, committing new offenses, and condition number 10, failing to meet with the probation officer. Goodman was sentenced to two years in a regional punishment facility and given an additional two years' suspended sentence following her release. On appeal, Goodman argues that the trial court erred in revoking her probation where the revocation was based in part upon allegations not set forth in the petition to revoke, asserting that it was a denial of due process to do so because she received no notice that the subsequent hot-check violations would be in issue. We affirm.

In order to revoke probation or a suspension, the trial court must find by a preponderance of the evidence that the defendant inexcusably violated a condition of that probation or suspension. Ark. Code Ann. § 5-4-309(d) (Supp. 2009); *Harris v. State*, 98 Ark. App. 264, 254 S.W.3d 789 (2007). The State bears the burden of proof but need only prove

that the defendant committed one violation of the conditions. *Id.* We do not reverse a trial court's findings on appeal unless they are clearly against the preponderance of the evidence.

Id.

In its revocation petition, the State alleged that Goodman had violated the written terms and conditions of her suspended sentence by failing to pay restitution, failing to submit to drug or alcohol testing, failing to report to her probation officer, failing to pay \$450 in court costs, and failing to pay a \$250 DNA fee. While the State presented proof of numerous probation violations, it was only necessary that the State prove one violation. *See id.* We affirm Goodman's revocation because she, by her own admission, failed repeatedly to meet with her probation officer, and we cannot say that the circuit court's decision on this ground is clearly against the preponderance of the evidence. Because the State need prove only one violation, we need not address Goodman's other argument.

Affirmed.

VAUGHT, C.J., and GLOVER, J., agree.