

ARKANSAS COURT OF APPEALS

DIVISION I

No. CR-18-714

MELVIN JONES

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: April 17, 2019

APPEAL FROM THE CRAWFORD
COUNTY CIRCUIT COURT
[NO. 17CR-17-249]

HONORABLE GARY COTTRELL,
JUDGE

AFFIRMED

RAYMOND R. ABRAMSON, Judge

A Crawford County Circuit Court jury convicted appellant, Melvin Jones, of possession of drug paraphernalia, a Class B felony, and possession of methamphetamine, a Class D felony. He was sentenced as a habitual offender to five years' imprisonment for the possession-of-drug-paraphernalia conviction and fifteen years' imprisonment for the possession-of- methamphetamine conviction with the sentences to run consecutively. On appeal, Jones challenges the sufficiency of the evidence for both convictions. Because his arguments are unpreserved, we affirm.

On March 6, 2017, at approximately 8:30 p.m., Jones was pulled over in a traffic stop after Deputy Kirill Maslakov observed him driving a 1994 Chevrolet pickup truck erratically. Jones exhibited signs of methamphetamine use. After a search, Jones was found to have a small key container in his pocket that held a plastic bag of methamphetamine.

Both the report from the crime lab and the custody log for the plastic bag were stipulated to with no objection and admitted into evidence. The report confirmed that the bag contained 1.5485 grams of methamphetamine. A digital scale and a glass pipe, both of which appeared to have methamphetamine residue on them, were also found in the truck. Deputy Maslakov testified that based on his law-enforcement experience, the baggies, digital scale, and glass pipe found in Jones's truck indicated methamphetamine use.

A motion for directed verdict is treated as a challenge to the sufficiency of the evidence, and the denial of the motion is affirmed if sufficient evidence, either direct or circumstantial, supports the verdict. *Friday v. State*, 2018 Ark. 339, at 5, 561 S.W.3d 318, 322. A directed-verdict motion must specifically state the grounds on which the motion relies. *See Newton v. State*, 2011 Ark. App. 190, at 6, 382 S.W.3d 711, 714–15; *see also* Ark. R. Crim. P. 33.1 (2018). Any ground not specifically stated in such a motion is not preserved for appeal. *Id.*

Substantial evidence is evidence that compels a conclusion beyond suspicion or conjecture, and on appeal, the evidence at trial is viewed in the light most favorable to the verdict. *Newton*, 2011 Ark. App. 190, at 1–2, 382 S.W.3d at 712. Circumstantial evidence is substantial when it excludes all other reasonable hypotheses other than the guilt of the accused; whether the evidence does so is a question to be determined by the fact-finder. *Brawner v. State*, 2013 Ark. App. 413, at 6, 428 S.W.3d 600, 605. The fact-finder also is responsible for determining witness credibility and resolving any issues of conflicting testimony and inconsistent evidence. *Newton*, 2011 Ark. App. 190, at 2, 382 S.W.3d at 712.

Procedurally, Jones cannot prevail because he failed to make specific objections in his directed-verdict motion to preserve his current challenges to the sufficiency of the evidence on appeal.¹ In his directed-verdict motions, Jones twice stated that the State had failed to make a “*prima facie* case” for possession of drug paraphernalia and possession of methamphetamine. To preserve a challenge to the sufficiency of the evidence, an appellant must make a specific motion for a directed verdict that advises the circuit court of the exact element of the crime that the State has failed to prove. *Malone v. State*, 2012 Ark. App. 280, at 3.

Here, Jones’s motions for directed verdict do not inform the circuit court of any specific deficiency in the State’s case. He simply said that the State had not made a “*prima facie* case.” This is insufficient. Because Jones failed to make specific arguments in his directed-verdict motions, his arguments are not preserved for appellate review. By not advising the circuit court of the specific issues in the State’s case that he is now challenging on appeal, the question of the sufficiency of evidence to support his convictions is not preserved for appeal. *Lee v. State*, 2013 Ark. App. 209, at 3–4.

Affirmed.

KLAPPENBACH and VAUGHT, JJ., agree.

Lisa-Marie Norris, for appellant.

Leslie Rutledge, Att’y Gen., by: *Chris R. Warthen*, Ass’t Att’y Gen., for appellee.

¹The circuit court granted Jones’s motion for directed verdict on the charge of possession of drug paraphernalia as a Class D felony but denied the motion as it pertained to the charges of possession of drug paraphernalia as a Class B felony and possession of methamphetamine, a Class D felony.