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ARKANSAS COURT OF APPEALS
DIVISION IV
No. CR-23-292

TRINA HONEYCUTT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 31, 2024

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. 16]JCR-18-357]

HONORABLE CHRISTOPHER R.
THYER, JUDGE

AFFIRMED; REMANDED TO
CORRECT AMENDED SENTENCING
ORDER

RAYMOND R. ABRAMSON, Judge

On October 4, 2019, appellant Trina Honeycutt pleaded guilty to failure to appear, a Class C felony, and she was sentenced as a habitual offender to four years' imprisonment followed by six years' suspended imposition of sentence ("SIS").¹ After a revocation hearing, the court revoked her SIS and sentenced her to ten years' imprisonment followed by ten years' SIS. On appeal, Honeycutt claims that the State failed to prove that she possessed the methamphetamine found underneath her car and argues this court should reverse the circuit

¹On the same day, she pleaded guilty to failure to appear and received the same sentence in case number 16JCR-19-334, which is subject to a revocation appeal in a companion case, *Honeycut v. State*, 2024 Ark. App. 55.

court's findings. We affirm and remand to correct a scrivener's error in the amended sentencing order.²

After the State filed a petition to revoke Honeycutt's SIS alleging that she (1) failed to live a law-abiding life, (2) possessed illegal drugs, (3) possessed drug paraphernalia, (4) committed the new offense of possession of a controlled substance, and (5) committed the new offense of possession of drug paraphernalia, the circuit court held a revocation hearing on January 12, 2023.

At that hearing, the following evidence was presented. On December 22, 2021, officers with the Jonesboro Police Department attempted to contact the driver of a car in a Walmart parking lot after they received a suspicious-persons report. Instead of stopping for the police, the car sped through the parking lot until it eventually stopped. Honeycutt was in the front passenger seat of the car, and Charles Cooper, a convicted felon, was driving. During the stop, a police dog alerted to suspected drugs in the car. The officers searched the car and found methamphetamine and a syringe on the driver side of the car. They also found methamphetamine on the ground underneath the passenger side of the car.

An officer explained that it looked like "someone had maybe dropped [the methamphetamine] out of their lap or tried to throw it under the vehicle when they got out." Honeycutt testified that the methamphetamine belonged to Cooper. She claimed she did

²Honeycutt pleaded guilty and was sentenced as a habitual offender pursuant to Arkansas Code Annotated section 5-4-501(b) (Supp. 2021), but the habitual-offender box on the amended sentencing order filed January 20, 2023, was not checked.

not know Cooper had drugs on him before she got into the car with him. Honeycutt stated that as Cooper was speeding away from police, he threw the methamphetamine and a syringe at her to hide. She explained that she did not have time to hide the methamphetamine in the dashboard as Cooper requested, so she dropped the methamphetamine on the ground underneath the car to keep police from finding it. Honeycutt also admitted she had used cocaine for over a decade, including in December 2021 while she was on probation.

After hearing the above evidence, the circuit court found that Honeycutt had violated the terms and conditions of her SIS; it did not specify which condition she had violated. The circuit court also explained that it found Honeycutt's testimony—that she had no knowledge when she got into the car that Cooper had drugs on him—not credible. The court revoked her SIS and sentenced her to ten years' imprisonment followed by ten years' SIS, and this timely appeal followed.

On appeal, Honeycutt claims the State failed to prove that she possessed the methamphetamine found underneath the car. She argues that the drugs belonged to Cooper—the driver of the car.

A circuit court may revoke a defendant's SIS at any time prior to its expiration if the “court finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his or her suspension of sentence[.]” Ark. Code Ann. § 16-93-308(d) (Supp. 2021). Evidence that is insufficient for a criminal conviction may be sufficient for the revocation of a suspended sentence. *Phounsavath v. State*, 2016 Ark. App. 65, at 3,

482 S.W.3d 332, 334. To sustain a revocation, the State need only show that the defendant committed one violation. *Jones v. State*, 2022 Ark. App. 511, at 4, 656 S.W.3d 219, 222.

On appeal, we will not reverse the circuit court's findings unless they are clearly against the preponderance of the evidence. *Thompson v. State*, 2019 Ark. App. 421, 586 S.W.3d 682. Because the preponderance of the evidence turns on questions of credibility and weight to be given testimony, our court defers to the superior position of the circuit court to decide these matters. *Carter v. State*, 2023 Ark. App. 110, at 6, 660 S.W.3d 923, 927. Under these standards, we hold that the circuit court did not err by revoking Honeycutt's SIS.

In its revocation petition, the State alleged five conditions upon which Honeycutt's SIS should be revoked. The circuit court revoked her SIS after the hearing without specifying which condition she had violated. Therefore, it could have revoked her SIS for any reason that was listed in the revocation petition for which the State presented sufficient evidence to support. See *Stewart v. State*, 2018 Ark. App. 306, at 3, 550 S.W.3d 916, 918 ("When multiple violations are alleged as justification for revocation of probation, and the circuit court made no specific findings as to which violation it relied on, we will affirm the revocation if there is sufficient evidence to establish that at least one violation has been committed.").

Honeycutt admitted at the hearing that she is a drug addict and that she had used cocaine in December 2021 while she was on probation. This testimony was evidence that she violated her SIS by failing to lead a law-abiding life. See *Stewart*, 2018 Ark. App. 306, at 4, 550 S.W.3d at 918 (explaining that "a positive drug screen can be used as evidence that

an appellant has violated the probation condition that the appellant lead a law-abiding life”). Her admitted drug use was a sufficient reason for the circuit court to revoke her SIS, and she does not challenge proof of this violation on appeal.

Moreover, contrary to Honeycutt’s argument on appeal, we agree with the State that it presented sufficient evidence to show that she possessed the methamphetamine police found during the traffic stop on December 22, 2021. The State is not required to prove literal physical possession of contraband to prove possession—a defendant’s constructive possession will suffice. *Porchay v. State*, 2021 Ark. App. 64, at 4, 616 S.W.3d 699, 702. Constructive possession may be inferred when contraband is in the joint control of the accused and another. *Webb v. State*, 2015 Ark. App. 257, at 6, 460 S.W.3d 820, 824. The State must prove that the accused exercised care, control, and management over the contraband and that the accused knew the matter possessed was contraband. *Phounsavath*, 2016 Ark. App. 65, at 4, 482 S.W.3d at 334.

To establish constructive possession in a jointly occupied vehicle, there must be some other factor linking the accused to the contraband, such as whether (1) the contraband was in plain view; (2) the contraband was found with the accused’s personal effects; (3) it was found on the same side of the vehicle seat as the accused was sitting or in near proximity to it; (4) the accused was the owner of the automobile, or exercised dominion or control over it; and (5) the accused acted suspiciously before or during the arrest. *Carter*, 2023 Ark. App. 110, at 9, 660 S.W.3d at 929. “There is no requirement, however, that a majority of the

linking factors be present in order to prove constructive possession.” *Porchay*, 2021 Ark. App. 64, at 5, 616 S.W.3d at 703.

During the traffic stop, officers found methamphetamine underneath the front passenger seat where Honeycutt had been sitting. She also admitted that she attempted to hide the methamphetamine from police by throwing it underneath the car. Honeycutt admittedly had physical possession of the methamphetamine before the police discovered it on the ground. Although Honeycutt testified that she did not know there was methamphetamine in the car and claimed that it belonged to Cooper, the circuit court was not required to believe her self-serving testimony. *See Jones*, 2022 Ark. App. 511, at 7, 656 S.W.3d at 223. The circuit court found her testimony—that she had no knowledge when she got into the car that Cooper had drugs on him—not credible. Having reviewed the record before us and giving proper deference to the circuit court’s credibility determinations, we hold that the court did not err by revoking Honeycutt’s SIS; accordingly, we affirm the revocation and remand with instructions to correct the amended sentencing order to reflect her habitual-offender status.

Affirmed; remanded to correct amended sentencing order.

HARRISON, C.J., and HIXSON, J., agree.

Terry Goodwin Jones, for appellant.

Tim Griffin, Att’y Gen., by: *Brooke Jackson Gasaway*, Ass’t Att’y Gen., for appellee.