

Cite as 2024 Ark. App. 95
ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-23-302

TONY STEVENS		Opinion Delivered February 14, 2024
	APPELLANT	APPEAL FROM THE CRAIGHEAD COUNTY CIRCUIT COURT, WESTERN DISTRICT [NO. 16JCR-21-964]
V.		
STATE OF ARKANSAS	APPELLEE	HONORABLE CHRIS THYER, JUDGE
		AFFIRMED

N. MARK KLAPPENBACH, Judge

Tony Stevens appeals from the order of the Craighead County Circuit Court revoking his suspended imposition of sentence (SIS) and sentencing him to ten years' imprisonment. We affirm.

In November 2021, Stevens was placed on three years' SIS after pleading guilty to the charge of failing to comply with sex-offender registration and reporting requirements. In 2022, the State filed a petition for revocation and two supplemental petitions alleging that Stevens had violated the conditions of his SIS.¹ The petitions alleged that Stevens had

¹The petitions also alleged that Stevens had violated the conditions of his SIS in two other cases, CR-17-424 and CR-16-967, and a joint revocation hearing was held for all three cases. Those cases were both appealed and are addressed in separate opinions also handed down today.

committed the new offense of failure to register as a sex offender and had on two occasions committed possession of a controlled substance and possession of drug paraphernalia. Following a hearing, the circuit court found by a preponderance of the evidence that Stevens had violated the conditions of his SIS and sentenced him to ten years' imprisonment.

To revoke a suspended sentence, the State bears the burden of proving by a preponderance of the evidence that the defendant violated a condition of the suspended sentence. *Daniels v. State*, 2019 Ark. App. 473, 588 S.W.3d 116. On appeal, a circuit court's revocation of a suspended sentence will be affirmed unless the decision is clearly against the preponderance of the evidence. *Id.* Evidence that is insufficient for a criminal conviction may be sufficient for revocation of a suspended sentence. *Id.* When multiple violations are alleged, a circuit court's revocation will be affirmed if the evidence is sufficient to establish that the appellant violated any one condition of the SIS. *Id.*

At the revocation hearing, Officer Wilburn Crews of the Jonesboro Police Department testified that he arrested Stevens on April 7, 2022, after conducting a traffic stop of the vehicle in which Stevens was a passenger. After asking Stevens to get out of the vehicle, Crews noticed him trying to conceal something in his pants. Crews then saw a needle on the ground by Stevens's feet and found 0.8 grams of methamphetamine in his pocket. Crews said that Stevens "took claim" to the methamphetamine. Officer Michel Starnes of the Jonesboro Police Department testified that he arrested Stevens on April 24, 2022, while in the process of clearing a residence. Stevens was discovered sleeping alone in a bedroom with methamphetamine and a syringe next to him on the nightstand. Starnes

testified that there were multiple female occupants of the home, but Stevens was the only person in the home at the time it was searched.²

On appeal, Stevens vaguely argues that there was insufficient evidence of actual or constructive possession of the drugs and drug paraphernalia because “others in the home and in the car had access to the places where the drugs were discovered.” This argument ignores Officer Crews’s testimony that he found methamphetamine in Stevens’s pocket, and Stevens acknowledged that it was his. Furthermore, with regard to Stevens’s second arrest, Officer Starnes testified that Stevens was the only person in the bedroom and in the home when the contraband was discovered. To prove constructive possession, the State must establish that the defendant exercised care, control, and management over the contraband. *Braswell v. State*, 2022 Ark. App. 102. Constructive possession can be inferred when the contraband is found in a place immediately and exclusively accessible to the accused and subject to his control. *Id.* Here, the evidence showed that the contraband was found on the nightstand in close proximity to Stevens, who was the sole occupant of the home at that time. Accordingly, there was sufficient evidence to establish Stevens’s possession of contraband. Because we affirm the revocation on this basis, it is unnecessary to address the evidence regarding his failure to register as a sex offender.

²We note that appellant’s brief fails to comply with Arkansas Supreme Court Rule 4-2(a)(6), which provides that the brief “shall contain a concise statement of the case and the facts without argument” and “shall identify and discuss all material factual and procedural information contained in the record on appeal.” Nowhere in appellant’s brief does counsel discuss the material facts as stated in this paragraph. We strongly caution counsel to closely read and follow the rules applicable to appeals.

Affirmed.

BARRETT and MURPHY, JJ., agree.

Terry Goodwin Jones, for appellant.

Tim Griffin, Att'y Gen., by: *David L. Eanes, Jr.*, Ass't Att'y Gen., for appellee.