

Cite as 2024 Ark. App. 96
ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-23-303

TONY STEVENS		Opinion Delivered February 14, 2024
	APPELLANT	APPEAL FROM THE CRAIGHEAD COUNTY CIRCUIT COURT, WESTERN DISTRICT [NO. 16JCR-17-424]
V.		
STATE OF ARKANSAS	APPELLEE	HONORABLE CHRIS THYER, JUDGE
		AFFIRMED; REMANDED FOR RESENTENCING

N. MARK KLAPPENBACH, Judge

Tony Stevens appeals from the order of the Craighead County Circuit Court revoking his suspended imposition of sentence (SIS). We affirm the revocation and remand for resentencing.

In August 2017, Stevens pleaded guilty to the charges of sexually grooming a child and sexual indecency with a child. For each offense, he was sentenced as a habitual offender to three and a half years' imprisonment and five years' SIS. In April 2022, the State filed a petition for revocation followed by two supplemental petitions alleging that Stevens had violated the conditions of his SIS by committing the new offenses of possession of a controlled substance, possession of drug paraphernalia, and failure to register as a sex

offender. The petitions filed in this case also alleged that Stevens had violated his SIS in two other cases, and a joint revocation hearing was held for all three cases; thus, the evidence and the circuit court's decision was the same in all three cases. On appeal, Stevens has filed identical briefs in all three cases. For the reasons stated in *Stevens v. State*, 2024 Ark. App. 95, we affirm the revocation in this case.

Although we affirm the revocation, we must remand for resentencing. As noted above, when Stevens was originally sentenced on the charges of sexually grooming a child and sexual indecency with a child, he was sentenced as a habitual offender. Thus, pursuant to Arkansas Code Annotated section 5-4-501(a)(2)(E) (Supp. 2023), he was subject to a maximum sentence of twelve years' imprisonment for each Class D felony. The court sentenced him on each offense to three and a half years' imprisonment and five years' SIS. Accordingly, upon revocation, the maximum term of imprisonment to which Stevens could be sentenced for each offense was eight and a half years.¹ The sentencing order and amended sentencing orders, however, reflect that for each of the two offenses, Stevens was sentenced to ten years' imprisonment and seven years' SIS. This is outside the range of a legal sentence. Accordingly, we remand for resentencing. See *Reed v. State*, 2014 Ark. App. 10.

¹If a court revokes a defendant's suspended sentence, the court may enter a judgment of conviction and may impose any sentence on the defendant that might have been imposed originally for the offense of which he or she was found guilty; however, any sentence of imprisonment, when combined with any previous imprisonment imposed for the same offense, shall not exceed the limits of § 5-4-201 or § 5-4-401 or, if applicable, § 5-4-501. Ark. Code Ann. § 16-93-308(g)(1) (Supp. 2023). Thus, upon revocation, Stevens's sentence, when combined with his previous sentence of three and a half years' imprisonment, could not exceed twelve years.

Affirmed; remanded for resentencing.

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.