

Cite as 2024 Ark. App. 189
ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-23-561

JOANNA WHITE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered March 13, 2024

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[NO. 04CR-17-2257]

HONORABLE ROBIN F. GREEN,
JUDGE

AFFIRMED

STEPHANIE POTTER BARRETT, Judge

Joanna White appeals the Benton County Circuit Court’s revocation of her probation, arguing that the State’s evidence for revocation was legally insufficient because the State failed to introduce the terms and conditions of her probation during the revocation hearing. We affirm the revocation.

On January 29, 2018, White entered a negotiated plea of guilty to the charges of possession of a controlled substance and possession of drug paraphernalia, both Class D felonies. She was placed on three years’ probation, assessed a fine of \$1000, and ordered to pay court costs and fees. A sentencing order reflecting this disposition was entered on February 1. Conditions of White’s probation included reporting as directed to a supervising officer and remaining in Arkansas unless granted permission to leave by her supervising officer.

On May 25, 2018, the State filed a petition to revoke White's probation, alleging that she failed to report as directed. Attached to the petition was an affidavit from Michael Dealy, White's probation officer, averring that on February 21, 2018, White was given permission to report to Texas probation as part of a transfer request; however, White failed to report. Attempts were made to contact White by letter and phone in March and April 2018 with no response, and Texas probation denied the transfer request because of the inability to verify White's address.

A bench warrant was issued for White on May 31, 2018, and White was eventually extradited from Gainesville, Texas, in December 2022. A revocation hearing was held on January 19, 2023. When asked by the court if she had failed to report as directed, White stated, "It is true, Judge. I—I—I moved back to Texas. I had interstate compact and—I think. And I started working and I got busy trying to get back on my feet and I kind of let it fall to the side." After noting that White had admitted she had not reported for almost five years, the circuit court revoked her probation and sentenced her to a term of six years in prison to be followed by a six-year suspended imposition of sentence.

A circuit court may revoke a defendant's probation at any time prior to the expiration of the period of probation if, by a preponderance of the evidence, it finds that the defendant has inexcusably failed to comply with a condition of his probation.¹ *Kidwell v. State*, 2017

¹White's probation was not revoked until after her probationary period had run. However, a court may revoke probation subsequent to the probationary period if, before the expiration of the probationary period, a petition to revoke the probation has been filed and

Ark. App. 4, 511 S.W.3d 341. The State has the burden of proving that a condition of probation has been violated; proof of only one violation must be shown to sustain a revocation. *Almond v. State*, 2024 Ark. App. 68. The circuit court's findings are affirmed on appellate review unless they are clearly against the preponderance of the evidence. *Id.* The appellate courts defer to the circuit court's superior position to determine credibility and the weight to be accorded testimony. *Id.*

Although she concedes that she failed to make an objection below, White argues on appeal that the circuit court erred in revoking her probation because the State failed to introduce the terms and conditions of her probation during the revocation hearing. We have repeatedly held that an argument that the State failed to introduce a copy of the conditions of probation is a procedural objection that must be raised before the circuit court. *Id.*

Nevertheless, White argues that the evidence at her revocation hearing was legally insufficient because no evidence was presented to explain whether she was aware of any terms and conditions concerning her request to transfer her probation to Texas and whether the petition for revocation concerned reporting for probation in Arkansas or Texas. It is well settled that a defendant may challenge the sufficiency of the State's proof on appeal from a revocation proceeding in the absence of a directed-verdict motion or motion to dismiss. *Welch v. State*, 2021 Ark. App. 216. However, White reverts to her argument that she was

a warrant is issued for the defendant's arrest within thirty days of the date of the filing of the petition. Ark. Code Ann. § 16-93-308(f)(3) (Supp. 2023).

not placed on written notice that failure to report to a supervising officer was a condition of her probationary sentence. However, as discussed above, this is a procedural issue that White failed to raise before the circuit court; therefore, this argument is not preserved for appellate review.

Nevertheless, the evidence presented was sufficient to support the revocation of White's probation. White admitted at the revocation hearing that she had failed to report as directed, stating that she had moved to Texas and "let it fall to the side." A probationer's admission that he or she violated the conditions of probation, on its own, is sufficient to support revocation. *Smith v. State*, 2023 Ark. App. 383. Therefore, we affirm.

Affirmed.

GLADWIN and GRUBER, JJ., agree.

Sharon Kiel Law, by: *Sharon Kiel*, for appellant.

Tim Griffin, Att'y Gen., by: *Adam Jackson, Ass't Att'y Gen.*, for appellee.