

Cite as 2024 Ark. App. 250
ARKANSAS COURT OF APPEALS
DIVISION I
No. CR-23-652

EXIE TRAMMELL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 17, 2024

APPEAL FROM THE HEMPSTEAD
COUNTY CIRCUIT COURT
[NO. 29CR-18-66]

HONORABLE DUNCAN CULPEPPER,
JUDGE

AFFIRMED

ROBERT J. GLADWIN, Judge

Exie Trammell appeals from the May 4, 2023 sentencing order entered by the Hempstead County Circuit Court revoking her probation and sentencing her to serve 120 months in the Arkansas Division of Correction on each of the two counts in the underlying conviction, to run concurrently. She challenges the sufficiency of the evidence supporting the revocation of her probation. We affirm.

I. Facts and Procedural History

On March 4, 2019, Trammell pleaded guilty in the Hempstead County Circuit Court to one count of robbery, a Class B felony, and one count of theft of property, a Class C felony. She was sentenced to ten years' probation, a \$2,000 fine, and \$1,000 in restitution along with court costs. On the same date, the circuit court provided Trammell with written conditions of her probation, which she acknowledged in writing. These conditions included

that Trammell “obey all federal and state laws[.]” The original sentencing order was entered on March 29.

The State filed a petition for revocation on October 25, 2022. Attached to it was a report of probated sentence violation and recommendation to revoke, which states that Trammell violated the conditions of her probation by committing an offense against the laws of this, or any other State, or the United States as follows:

According to records maintained by Hope Police Department, on or about October 14, 2022, Exie Trammell allegedly committed the criminal offense of Aggravated Assault on a Family Member, in Hempstead County, Arkansas.

It is my recommendation that the defendant’s Suspended Imposition of Sentence be revoked and that she be sentenced to a term of imprisonment in the Arkansas Department of Correction.

Arkansas Code Annotated section 5-26-306 (Supp. 2021) is the relevant statute defining the felony offense allegedly committed by Trammell as the single probation violation. It states, to the extent relevant to this case:

(a) A person commits aggravated assault on a family or household member if, under circumstances manifesting extreme indifference to the value of human life, the person purposely:

(1) Engages in conduct that creates a substantial danger of death or serious physical injury to a family or household member[.]

On March 22, 2023, the circuit court held a hearing on the revocation petition. The State called Christopher Love, who testified that as of October 14, 2022, he and Trammell had been in a dating relationship for approximately six months. Love testified that on that day, he had gone down the street to the home of another woman, Mayani Baza, trying to, as

he explained, “have my cake and eat it at the same time.” According to Love, Trammell discovered his activities, came to Baza’s house, and tried to get him “to come home.”

Love testified that when Trammell got there, he “picked up a rake” and swung it at Trammell, who then picked up a “little stick to protect herself.” Love stated that he previously had lied to the police officers on the scene when he told them that Trammell had a knife. Love also claimed that police officers had “coerced” him into saying Trammell had a knife and that at the time of the altercation, he was high as well.

Love was presented with the signed witness statement he gave to officers on the scene, which was admitted without objection. Love read from the statement, which included that “Exie Trammell chased me. I want her to stay away from—I don’t want nothing to do with her at all. Chased me with a blade in her hand.” In responses to further questioning, Love admitted that he had told police officers immediately on their arrival that Trammell had a “blade or knife” but that the statement “was a lie.”

Love noted that he had not called 911 to request police assistance. He testified that “Ms. Baza,” the person he was there to see, was inside the house and could have called them. Love acknowledged that the information the police received from the 911 call was that “a female had a knife” but clarified that he did not instruct anyone to tell them that Trammell had a knife. Love also stated that by the time the officers arrived, Trammell had already left the scene.

Daniel Oller, a sergeant with the Hope Police Department, testified that on October 14, 2022, he was dispatched to 701 East Third Street to a disturbance involving a female

who was armed with a knife. Sergeant Oller stated that when he arrived at the scene, only two people were there: the homeowner, a woman he knew as Mayani Baza, and Love. He initially asked Baza if she was the woman with the knife, and she said she was not.

Sergeant Oller described Love as being “distraught” and “excited” as he described how Trammell, who had fled the scene, had “tried to attack him with a knife.” Love also told Sergeant Oller that he had “spent the night [at Baza’s house] because Ms. Trammell had locked him out of the house.” Sergeant Oller identified Baza as the 911 caller who said that Trammell “came over there and tried to attack [Love] with a knife.”

Eric Green, a detective with the Hope Police Department, testified that, following Trammell’s arrest and the reading of her *Miranda* rights, he questioned her regarding the incident. A videotape of the interview was admitted into evidence without objection.

Detective Green testified that Trammell, during the interview, told him that she “caught [Love] cheating” and drove to Baza’s expecting to find Love there having an affair. She found him in the front yard, pretending to be working at “cleaning the yard.” She claimed that Love brandished a metal rake at her, causing her to think he may come at her with it. She stated that she looked around Baza’s yard to find anything with which to defend herself and picked up a short stick from the yard.

Detective Green testified that, according to Trammell, nothing more transpired between Love and her; she got back in her car and went home. The videotaped interview did show that Detective Green posed a number of questions to her, repeatedly suggesting that she dropped the knife in the yard when she left the scene. Detective Green acknowledged at

trial, though, that Trammell never once actually admitted she ever, at any time, had a knife in her possession or dropped a knife in the yard. He also acknowledged that officers did not search Trammell's car or home for the knife, even though they could have without a warrant because she was on probation at the time.

The State also called Ann Johnson, an Arkansas probation and parole officer, who testified that she supervised Trammell's probation sentence. Officer Johnson testified that Trammell was initially given a written copy of the conditions of her probation that she acknowledged in writing. She further testified that one of the conditions of Trammell's probation was that she not violate any state or federal laws.

Following Officer Johnson's testimony, the State rested, and Trammell neither testified nor called any other witnesses. At the conclusion of the hearing, the circuit court announced its ruling from the bench, initially noting that nothing Love had said in court was at all credible. It then ruled that the State had proved by a preponderance of the evidence that Trammell had violated her probation by committing a criminal offense and sentenced her to serve 120 months in the Arkansas Division of Correction on each of the two counts in the underlying conviction. The circuit court postponed imposing the sentence to allow Trammell to make arrangements for the care of her elderly father. At the sentencing hearing, the circuit court kept the same sentences but ran them concurrently. The sentencing order was filed on May 4, and Trammell filed her timely notice of appeal on June 1.

II. Standard of Review and Applicable Law

In *Cockrell v. State*, 2024 Ark. App. 184, at 4–5, ___ S.W.3d ___, ___, we recently reiterated the standard of review in a revocation proceeding:

A circuit court may revoke a defendant’s probation at any time before the expiration of the period of probation if it finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his or her probation. Ark. Code Ann. § 16-93-308(d) (Supp. 2023); *Tilley v. State*, 2024 Ark. App. 19, at 3, 683 S.W.3d 200[, 201]. The State’s burden of proof in a revocation proceeding is lower than is required to convict in a criminal trial, and evidence that is insufficient for a conviction may be sufficient for a revocation. *Id.* When the sufficiency of the evidence is challenged on appeal from an order of revocation, this court will not reverse the circuit court’s decision to revoke unless it is clearly against the preponderance of the evidence. *Id.* The State need only show that the appellant committed one violation in order to sustain a revocation. *Id.*; see also *Myatt v. State*, 2023 Ark. App. 66. Because the determination of a preponderance of the evidence turns on questions of credibility and the weight to be given testimony, we defer to the circuit court’s superior position to judge the weight and credibility of the testimony. *Leonard v. State*, 2023 Ark. App. 92, at 1–2. The circuit court is not required to believe a defendant’s self-serving testimony. *E.g.*, *Jones v. State*, 2022 Ark. App. 511, at 7, 656 S.W.3d 219, 223.

III. Discussion

Trammell argues that there was no evidence in the record on which anyone could find that she committed the offense of aggravated assault on a family member in violation of section 5-25-306. She claims that there was not even a scintilla of evidence, let alone substantial evidence. The circuit court specifically noted that the State’s complaining witness, Trammell’s then boyfriend, Love, was not credible as to anything he said at the hearing. Moreover, the investigating officer, Detective Green, admitted that he lied to Trammell and Love about there being a video of the altercation showing there to be a knife. Trammell argues that because this alleged incident was the only probation violation raised by the State, the petition seeking revocation should have been denied.

Trammell cites *Phillips v. State*, 271 Ark. 96, 607 S.W.2d 664 (1980), in which our supreme court noted the evidence must be more than a scintilla and must do more than create a suspicion of the existence of the fact to be established; it is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. She submits that the evidence at the revocation hearing never came close to even being considered a scintilla, let alone such that a reasonable mind might accept it as adequate to conclude she had purposely “engage[d] in conduct that create[d] a substantial danger of death or serious physical injury to a family or household member.” See Ark. Code Ann. § 5-26-306(a)(1) (Supp. 2023). Even with the lower burden of proof in revocation proceedings, Trammell urges that the State failed to prove she violated section 5-26-306(a)(1).

We disagree and hold that sufficient evidence supports the circuit court’s finding that Trammell inexcusably violated a condition of her probation by committing another criminal offense—specifically, aggravated assault on a family member in violation of section 5-26-306(a)(1).

Despite the circuit court’s observation that “none of [Love’s] testimony was credible,” other evidence was presented in support of the revocation petition. Sergeant Oller testified that when he arrived at the scene approximately two minutes after the call to dispatch went out, he made contact with Love, whom he described as being “excited” and “distraught” and who “went into great detail” about how Trammell “tried to attack him with a knife.” Sergeant Oller added that the 911 caller, Baza, also stated that Trammell “came over there and tried to attack [Love] with a knife.”

Although the circuit court rejected Love’s testimony as not being credible, it weighed the out-of-court statement made by Love to Sergeant Oller and the information received in the 911 call to police. *See Ark. R. Evid. 1101(b)(3) (2023)* (rules of evidence do not apply to revocation proceedings). Additionally, the out-of-court statements testified to by Sergeant Oller were admitted without objection. *See Jones v. State*, 332 Ark. 617, 621, 967 S.W.2d 559, 561 (1998) (noting that “hearsay, admitted without objection, may constitute substantial evidence to support a ruling”). Here, the statements in question could be considered by the circuit court and constituted substantial evidence to support its ruling.

Trammell also attacks the credibility of Detective Green, who admitted that he told her that a knife had been recovered at the scene and that police were in possession of a video of the incident. However, on appeal, we defer to the circuit court’s superior position in evaluating the credibility and weight of testimony presented at the revocation hearing. *See Ruffin v. State*, 2020 Ark. App. 179, at 6, 597 S.W.3d 151, 155.

Also, after Trammell asserted several times that she did not have a knife at the scene, Detective Green followed up with questions to determine what she had in her hand and what she did with it:

DETECTIVE GREEN: Did you bring the knife from home or was it in your car? Did you find it on the ground?

TRAMMELL: No.

DETECTIVE GREEN: Where did the knife come from?

TRAMMELL: When I got out of the car, it was—I didn’t have no knife.

DETECTIVE GREEN: When you got out of the car, you didn't have the knife with you? So, when did you get the knife?

TRAMMELL: It was on the ground.

DETECTIVE GREEN: It was in her yard?

TRAMMELL: Yeah. He picked up a rake trying to hit me with a rake, did y'all see that?

We hold that Trammell's admission and the supporting testimony of Sergeant Oller and Detective Green constitute sufficient evidence to support the State's allegation that she inexcusably committed aggravated assault on a family member in violation of the express terms of her probation. Accordingly, we affirm.

Affirmed.

KLAPPENBACH and GRUBER, JJ., agree.

James D. Slayton, for appellant.

Tim Griffin, Att'y Gen., by: *Kent G. Holt*, Ass't Att'y Gen., for appellee.