

ARKANSAS COURT OF APPEALSDIVISION III
No. CR-13-892

TRACY LAND DAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered OCTOBER 29, 2014

APPEAL FROM THE UNION COUNTY
CIRCUIT COURT
[NOS. CR-10-376 & CR-11-21]HONORABLE HAMILTON H.
SINGLETON, JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

The Union County Circuit Court revoked appellant Tracy Davis's suspended imposition of sentence and sentenced him to ten years' imprisonment. The sole issue on appeal is whether the circuit court erred in denying Davis's motion for continuance made on the day of the revocation hearing. We affirm the trial court's denial of Davis's motion for continuance.

This case began in July 2010, when Davis was charged with violating the Arkansas Hot Check Law. He entered a negotiated plea of guilty to this charge, and in May 2011, the circuit court suspended imposition of Davis's sentence for five years. Thereafter, the State filed a petition to revoke Davis's suspended sentence in April 2012; as a result of this petition, the circuit court ordered a new five-year suspended sentence in December 2012. The State filed a petition to revoke the new suspended sentence in May 2013, contending that Davis had committed a new criminal offense, had failed to pay court costs, and had failed to pay

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restitution. The new criminal offense involved the theft of coils from an air-conditioner unit located at Washington Middle School in El Dorado.

On June 6, 2013, the day of the revocation hearing, Davis moved for a continuance in order to obtain some discovery regarding the new criminal offense, contending that he did not commit the crime and that there had been other reports of criminal activity at the school prior to his arrest. The circuit court denied the motion for a continuance. After a hearing, the circuit court revoked Davis's suspended sentence and sentenced him to ten years' imprisonment.¹

Trial courts shall grant continuances only upon a showing of good cause; the denial of a motion for continuance is reviewed under an abuse-of-discretion standard. *Mahomes v. State*, 2013 Ark. App. 215, 427 S.W.3d 123. On appeal, an appellant not only must demonstrate that the trial court abused its discretion in denying the continuance motion, but must also show prejudice that amounts to a denial of justice. *Id.*

This same issue has recently been answered in Davis's companion revocation case, *Davis v. State*, 2014 Ark. App. 452, where our court held that it was not an abuse of discretion for the trial court to deny Davis's motion for a continuance. For the reasons stated in the earlier case, we affirm the denial of the continuance in this case.

Affirmed.

VAUGHT and WOOD, JJ., agree.

Robert M. "Robby" Golden, for appellant.

Dustin McDaniel, Att'y Gen., by: *Pamela A. Rumpz*, Ass't Att'y Gen., for appellee.

¹Davis also had a revocation petition in another case that was granted at this hearing. The circuit court sentenced Davis to ten years' imprisonment for each revocation, with the sentences to be served consecutively.