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ARKANSAS COURT OF APPEALS

DIVISION III
No. CR-18-537

BOBBY JOHN LAWSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: February 13, 2019

APPEAL FROM THE CRAWFORD
COUNTY CIRCUIT COURT
[NOS. 17CR-16-181, 17CR-16-588]

HONORABLE MICHAEL MEDLOCK,
JUDGE

AFFIRMED

MIKE MURPHY, Judge

Appellant Bobby John Lawson appeals the revocation of his suspended imposition of sentence (SIS). On appeal, he argues that there was insufficient evidence on which to revoke his SIS. We affirm.

On August 19, 2016, Lawson pleaded guilty to the offenses of failure to appear, first-degree endangering the welfare of a minor, and fleeing in a vehicle. Lawson was sentenced to three years in the Arkansas Department of Correction (ADC) plus an additional ten-year SIS contingent on his compliance with certain conditions. A judgment was entered outlining the agreed terms of Lawson's SIS with the specified conditions. Lawson's signature is on this judgment.

The State initially filed a petition to revoke Lawson's SIS on January 25, 2018, asserting that Lawson committed the new offenses of possession of methamphetamine and possession of drug paraphernalia, and he was charged as a habitual offender. The State amended its petition on February 5, to restate the prior allegations and to allege additional criminal acts by Lawson that occurred on January 13: attempted capital murder, criminal mischief, fleeing in a vehicle, driving while license suspended or revoked, and reckless driving.

The petition was heard on April 4, 2018. James Polk testified to the events that occurred on January 13, 2018. While on patrol for the Crawford County Sheriff's Department, Polk attempted to stop a vehicle that was crossing the double yellow line. He explained that it appeared as though the driver of the vehicle was going to pull over but then accelerated quickly into the city limits of Alma. Polk's patrol truck was clearly marked as a law-enforcement vehicle. He continued to pursue the vehicle until they drove on to a dead-end road. Polk testified that the road ended at a cattle gate, so he thought the vehicle was going to stop, but the driver proceeded to crash through the gate, strike multiple animals, and spin the car around. Polk's truck stopped just in front of the vehicle, and he identified the driver as Lawson because he had dealt with him numerous times in the past. Lawson did not comply with Polk's directive to get out of his vehicle. Instead, Lawson struck Polk's vehicle, came close to hitting Polk, and then backed up and sped away. The Alma Police Department was unsuccessful in apprehending Lawson that day, but he was arrested approximately a week later on an absconder warrant.

At the conclusion of the hearing, the circuit court found by a preponderance of the evidence that Lawson had violated the terms and conditions of his SIS. He was sentenced to sixteen years' incarceration in the ADC. He now timely appeals.

Pursuant to Arkansas Code Annotated section 16-93-308(d) (Supp. 2015), a circuit court may revoke a defendant's probation or suspension at any time prior to the expiration of the period of probation or suspension if the court finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a term or condition of the probation or suspension. The burden is on the State to prove a violation of a term or condition by a preponderance of the evidence. *Baker v. State*, 2016 Ark. App. 468, at 3-4. On appeal, the circuit court's findings will be upheld unless they are clearly against the preponderance of the evidence. *Id.* Because a determination of the preponderance of the evidence turns heavily on questions of credibility and weight to be given to the testimony, the appellate courts defer to the circuit court's superior position in this regard. *Id.* Only one violation of the conditions of probation must be proved to support a revocation. *Id.* Evidence that is insufficient for a criminal conviction may be sufficient for a revocation proceeding because the burdens of proof are different. *Id.*

Here, Lawson asserts on appeal that the State neither entered into evidence the actual SIS document nor asked the circuit court to take judicial notice of the original order placing him on SIS. As such, Lawson argues that there is insufficient proof that he was on

a term of suspension when these alleged violations occurred.¹ Lawson failed to raise this objection below or obtain a ruling on it.

We have long held that we will not address such an argument when it is raised for the first time on appeal. *See, e.g., Baker*, 2016 Ark. App. 468. In *Baker*, we addressed this issue:

This court has held, specifically with regard to revocation proceedings, that an argument that the State failed to introduce a copy of the terms and conditions of a suspended sentence is a procedural objection that must be raised before the circuit court. *Myers v. State*, 2014 Ark. App. 720, at 3, 451 S.W.3d 588, 590; *Cotta v. State*, 2013 Ark. App. 117; *Whitener v. State*, 96 Ark. App. 354, 241 S.W.3d 779 (2006). Appellant cites no authority for the proposition that the State's failure to specifically ask the trial court to take judicial notice of the SIS judgment already in the record constitutes a failure of proof and equates to a sufficiency-of-the-evidence problem. Our courts do not consider an argument when the appellant presents no citation to authority or convincing argument in its support and it is not apparent without further research that the argument is well taken. *Hollis v. State*, 346 Ark. 175, 55 S.W.3d 756 (2001); *Beth's Bail Bonds, Inc. v. State*, 2016 Ark. App. 171, 486 S.W.3d 240.

Id. at 5.

Lawson acknowledges that we can affirm based on this precedent but asks us to revisit it and specifically asks us to adopt the dissent in *Whitener*, *supra*.

We hold that Lawson has failed to make a compelling argument for overruling the foregoing precedent and we chose to continue to follow the established case law.

¹Lawson does not dispute that the SIS judgment and its terms and conditions were made a part of the record when the circuit court accepted his guilty plea on the original charges and sentenced him in 2016. A file-marked copy of the terms and conditions of his SIS was included in the certified record on appeal.

Accordingly, because Lawson failed to preserve any argument on this issue below, we affirm his revocation.

Affirmed.

ABRAMSON and HARRISON, JJ., agree.

Lisa-Marie Norris, for appellant.

Leslie Rutledge, Att’y Gen., by: *David L. Eanes, Jr.*, Ass’t Att’y Gen., for appellee.