

Cite as 2023 Ark. App. 343

## ARKANSAS COURT OF APPEALS

DIVISION III  
No. CR-22-569

WHITNEY SCRUGGS

APPELLANT

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 31, 2023

APPEAL FROM THE LONOKE  
COUNTY CIRCUIT COURT  
[NOS. 43CR-20-305; 43CR-21-11; 43CR-  
21-62]

HONORABLE BARBARA ELMORE,  
JUDGE

AFFIRMED

### MIKE MURPHY, Judge

Appellant Whitney Scruggs appeals the order of the Lonoke County Circuit Court revoking his probation and sentencing him to a term of four years in the community correction center, with one year suspended. On appeal, he argues that the finding that he violated a term of his probation is not supported by sufficient evidence. We affirm.

On April 26, 2021, Scruggs pleaded guilty to second-degree forgery, theft of property, possession of drug paraphernalia, and failure to appear. He was sentenced to supervised probation for six years. On October 20, the State filed a petition to revoke Scruggs's probation, alleging failure to report; failure to report and maintain employment or enrollment in an education program; failure to make payments toward fines, fees, and court

costs; and failure to complete court-ordered community service. That petition was amended on May 25, 2022, and a hearing was held that day on the petitions.

At the hearing, the court heard testimony from Scruggs's probation officer, Molly Norris. She testified that she met with Scruggs on May 21, 2021, and she discussed the conditions of probation with him. She saw him again on September 1 and October 4, 2021, but Scruggs never reported again thereafter. Norris testified that Scruggs had absconded, and they could not locate him. She additionally testified that Scruggs had not completed any community service and, to her knowledge, had not paid toward any of his court-ordered fines, fees, costs, or restitution.

Scruggs's probation packet was also introduced. It contained Scruggs's guilty pleas, his sentencing, and the written terms and conditions of his probation. Those conditions included reporting to the probation officer as directed, paying court-ordered fines and fees, and completing community service.

The State rested, and Scruggs testified on his own behalf. He explained that he had difficulty meeting the reporting requirements because he has a suspended license, his mother had surgery, and he was "scatterbrained." He admitted that he "really wasn't paying too much attention." He said he was in a wreck on July 19, 2021. He admitted not reporting from October 4, 2021, until May 23, 2022. He admitted that he had not paid any fines or restitution but that he had paid some of the supervision fees.

At the conclusion of the hearing, the circuit court found that Scruggs had violated the terms of his probation for failure to report and failure to complete court-ordered

community service. Scruggs was sentenced to four years in the community correction center with one year suspended. On appeal, he contends that sufficient evidence does not support a finding of a violation of a condition of probation.

A court may revoke a defendant's probation at any time prior to the expiration of the period of probation 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. Ark. Code Ann. § 16-93-308(d) (Supp. 2021). The State has the burden of proving that a condition of probation was violated. *Thompson v. State*, 2019 Ark. App. 421, at 2-3, 586 S.W.3d 682, 683-84. The State need only show that the defendant committed one violation in order to sustain a revocation. *Id.* We will not reverse the circuit court's findings unless they are clearly against the preponderance of the evidence. *Id.* We defer to the circuit court's superior position in determining the credibility of witnesses and the weight to be given to their testimony. *Id.*

Scruggs challenges the sufficiency of the proof as to each violation. When multiple violations are alleged as justification for revocation of probation, and the circuit court made no specific findings as to which violation it relied on, we will affirm the revocation if there is sufficient evidence to establish that at least one violation has been committed. *Doyle v. State*, 2009 Ark. App. 94, at 4, 302 S.W.3d 607, 609.

After review, we hold that sufficient evidence supports the circuit court's finding that Scruggs failed to report to his probation officer, which was a written condition of his probation. Both Norris and Scruggs testified to the fact that he did not appear to several

meetings, as directed. Scruggs argues on appeal that Norris's testimony was inconsistent on the dates of Scruggs's failure to report; however, the circuit court was best positioned to judge the credibility of the witness, weigh the testimony, and resolve any inconsistency. E.g., *Halliburton v. State*, 2020 Ark. 101, at 10, 594 S.W.3d 856, 863. Regarding Scruggs's excuses, the circuit court likewise had the discretion to either accept or reject any of his excuses for noncompliance. E.g., *Honeycutt v. State*, 2020 Ark. App. 449, at 5, 608 S.W.3d 631, 634. Sufficient evidence supports the revocation.

Affirmed.

HIXSON and BROWN, JJ., agree.

*Robert M. "Robby" Golden*, for appellant.

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