

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR08-626

CLARENCE JEROME HILL
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered MARCH 4, 2009

APPEAL FROM THE JACKSON
COUNTY CIRCUIT COURT,
[NO. CR2007-85]

HONORABLE HAROLD S. ERWIN,
JUDGE

AFFIRMED

RITA W. GRUBER, Judge

Clarence Hill was tried by a jury on the charges of terroristic threatening in the first degree and aggravated assault on a family or household member. He was convicted of both crimes and was sentenced to concurrent prison terms of two years. He now appeals, challenging the sufficiency of the evidence for each conviction. We do not address these points because they are not preserved for appeal.

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 engages in conduct that creates a substantial danger of death or serious physical injury to a family or household member. Ark. Code Ann. § 5-26-306(a) (Repl. 2006). A person commits the offense of terroristic threatening in the first degree if, with the purpose



of terrorizing another person, the person threatens to cause death or serious physical injury or substantial property damage to another person. Ark. Code Ann. § 5-13-301(a)(1).

At trial the victim testified in detail about Hill's alleged actions on the night of March 23, 2007, which resulted in the charges against him. Among those actions were beating her in his home and at an outdoor location, shutting her in the trunk of a car, holding a box cutter to her throat, and telling someone that he needed an alibi for his whereabouts. Further testimony was given by police who took the victim's report at the hospital, arrested Hill, and searched his home and vehicles for physical evidence the victim had described, which was also introduced into evidence.

At the close of the State's case, Hill moved for a directed verdict solely on the basis that the victim's "credibility" was not sufficient to establish the crimes. The trial court denied the motion, and Hill put on a case in his own defense. At the conclusion of all the evidence, Hill renewed his directed-verdict motion "for the same exact reasons stated at the close of the State's case in chief." His motion was again denied.

A motion for directed verdict or for dismissal based on insufficiency of the evidence must specify the respect in which the evidence is deficient. Ark. R. Crim. P. 33.1(c). A motion merely stating that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency such as insufficient proof on the elements of the offense. *Id.* Accordingly, in order to preserve a challenge to the sufficiency of the evidence, an appellant must make a specific motion for a directed verdict, both at the close of the State's case and at the end of all the evidence, that advises the trial court of the exact element of the crime that



the State has failed to prove. *Carey v. State*, 365 Ark. 379, 230 S.W.3d 553 (2006).

Hill's directed-verdict motions merely challenged the victim's credibility without asserting that the State failed to prove a specific element of first-degree terroristic threatening or aggravated assault on a family or household member. Because he did not advise the trial court of any criminal element that the State failed to prove, he has not preserved his insufficiency arguments and we will not address them on appeal.

Affirmed.

PITTMAN and BAKER, JJ., agree.