

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
D.P. MARSHALL JR., JUDGE

DIVISION II

CACR07-1244

23 April 2008

LARRY DONNELL REED,	AN APPEAL FROM THE PULASKI
	COUNTY CIRCUIT COURT
v.	[CR2006-1776]
STATE OF ARKANSAS,	THE HONORABLE BARRY ALAN
	SIMS, JUDGE
APPELLEE	
	AFFIRMED

Larry Reed was sentenced to five years' probation for robbery and misdemeanor theft of property. A few months later, he pleaded guilty to violating the terms of his probation and was put on probation for five more years. The circuit court later granted the State's petition to revoke the second term of probation. It concluded that Reed did not report to his probation officer as required and failed to pay his supervision fees. Reed argues on appeal that his failures were excusable because he was in jail. We hold, however, that the circuit court's conclusion that Reed inexcusably violated the terms of his probation was not clearly against the preponderance of the evidence. Ark. Code Ann. § 5-4-309(d) (Repl. 2006); *Richardson v. State*, 85 Ark. App. 347, 350, 157 S.W.3d 536, 538 (2004).

At the revocation hearing, Reed's probation officer testified that Reed failed to report to her after 12 December 2006. Then the record keeper at the Pulaski County Regional Detention Facility testified that Reed was in that jail from 16 October 2006 to 8 December

2006 and again for most of January 2007. The record keeper also testified that Reed did not attend a required weekend jail program and was re-jailed on 11 May 2007. Reed's testimony contradicted some of this evidence. He told the court that he remembered reporting in January and February 2007 and again on March 20, the date he was supposed to attend the jail program. He admitted, however, that he was not in jail during March or April 2007, and that he did not report in April. Reed did not present evidence—other than his disputed testimony—to explain his failure to report during the three months that he was not in jail. Reed told the court that he had called his probation officer in late April 2007 to make arrangements to pay his fees, but he returned to jail before carrying out those arrangements.

We defer to the circuit court's resolution of contradictions in the evidence and credibility determinations. *Bradley v. State*, 347 Ark. 518, 521, 65 S.W.3d 874, 876 (2002). Here, the court was not persuaded by Reed's testimony. Especially after considering the State's lower burden of proof in revocation proceedings, we hold that the circuit court's revocation decision was not clearly against the preponderance of the evidence. *Richardson*, 85 Ark. App. at 350, 157 S.W.3d at 538.

Affirmed.

PITTMAN, C.J., and ROBBINS, J., agree.