ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
ROBERT J. GLADWIN, JUDGE

DIVISION I

CACR07-1294

MAY 14, 2008

ANTHONY D. JOSENBERGER APPELLANT	APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT [NO. CR-2005-322]
V.	HON. J. MICHAEL FITZHUGH, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRM

By order filed September 13, 2007, the Sebastian County Circuit Court revoked appellant Anthony D. Josenberger's suspended sentence. The sole issue on appeal is whether the trial court erred in finding the State proved by a preponderance of the evidence that appellant violated the terms and conditions of his suspended sentence. We affirm the revocation.

Statement of the case

Appellant was convicted on March 23, 2005, of attempted-residential burglary and false imprisonment. He received a suspended sentence of sixty months. On June 6, 2006, appellant's suspended sentence was revoked, and he was sentenced to thirty-six months' imprisonment to be followed by a suspended imposition of sentence for eighty-four months.

His suspension conditions required appellant to pay restitution and have no contact with the victim, Linda Green. Appellant was released on parole on or about October 23, 2006. On May 7, 2007, the State filed a petition to revoke appellant's suspended sentence, alleging appellant had contacted Linda Green in violation of the terms and conditions of his suspended sentence. Further, the State alleged appellant had failed to pay restitution as required.

At the hearing on the State's petition to revoke, appellant admitted to having contacted Linda Greene and that he had not paid the restitution as ordered. The trial court held that the State proved by a preponderance of the evidence appellant violated the terms and conditions of his suspended sentence. Appellant was sentenced to six years' imprisonment, with an additional term of one year suspended. Appellant filed a timely notice of appeal. This appeal followed.

Standard of review

In *Lamb v. State*, 74 Ark. App. 245, 45 S.W.3d 869 (2001), this court set forth our standard of review in cases involving the revocation of a suspended imposition of sentence as follows:

> In a revocation proceeding the burden is on the State to prove the violation of a condition of the suspension by a preponderance of the evidence. Ark. Code Ann. § 5-4-309 (Supp.1999). On appeal, the trial court's findings will be upheld unless they are clearly against a preponderance of the evidence. *Lemons v. State*, 310 Ark. 381, 836 S.W.2d 861 (1992). Evidence that is insufficient for a criminal conviction may be sufficient for the revocation of probation or suspended sentence. *See Lemons v. State*, 310 Ark. at 383. Since the determination of a preponderance of the evidence turns on questions of credibility and the weight to be given testimony, we defer to the trial judge's superior position. *Lemons*, *supra*; *Hoffman v. State*, 289 Ark. 184, 711 S.W.2d 151 (1986). Circumstantial evidence may be sufficient to warrant revocation. *See Needham v. State*, 270 Ark. 131, 603 S.W.2d 412 (Ark. App.1980).

Id. at 247, 45 S.W.3d at 870-71. The State need only prove that appellant committed one violation of the conditions of his suspended imposition of sentence in order for appellant's suspended sentence to be revoked. *Rudd v. State*, 76 Ark. App. 121, 61 S.W.3d 885 (2001); *Ramsey v. State*, 60 Ark. App. 206, 959 S.W.2d 765 (1998).

Discussion

Appellant argues that, because Ms. Green initiated some of their contact, he was not in violation of the conditions of his suspension and the State failed to prove its case by a preponderance of the evidence. However, appellant fails to challenge the sufficiency of the evidence concerning his failure to pay restitution, so affirmance is required on that basis alone. Because the trial court revoked appellant's suspended sentence on two independent grounds, and appellant challenges only one of those grounds on appeal, this court will affirm without addressing either ground. *E.g.*, *Pugh v. State*, 351 Ark. 5, 89 S.W.3d 909 (2002).

Affirmed.

HART and MARSHALL, JJ., agree.