ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JUDGE DAVID M. GLOVER

DIVISION III

CACR07-31

June 20, 2007

	APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT
ANTHONY D. PRICE APPELLANT	[CR-03-1320, CR-05-76, CR05-103]
V.	HONORABLE NORMAN WILKINSON, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

Appellant, Anthony Price, appeals from the revocation of his suspended sentences. On July 27, 2006, the State filed a petition to revoke appellant's suspended imposition of sentences on the underlying offenses of possession of marijuana with intent to deliver, possession of cocaine with intent to deliver, possession of drug paraphernalia, and delivery of cocaine. The petition alleged that appellant had violated the terms and conditions of his suspended sentences by committing the offense of third-degree battery. A hearing was held on September 27, 2006, and at its conclusion the trial court determined that the appellant had committed third-degree battery in violation of his suspended sentences and that his suspended sentences should be revoked. For his sole point of appeal, he contends that the trial court erred in granting the State's petition to revoke for the reason that there

is insufficient evidence that he violated the terms and conditions of his suspended sentences. We disagree and affirm.

At the revocation hearing, Michael Warren, a Fort Smith police detective, testified that he investigated a battery involving a woman named Edna Wilson. He explained that Ms. Wilson reported that she had learned her attacker's name was Anthony Price; that he was able to obtain a photo ID of Price; that he compiled a photo line-up and had Ms. Wilson come to his office; and that she identified appellant. He said that her injuries were evident, even three days after the incident, and that her eye was swollen.

Ms. Wilson testified that she was at the Golden Goose Club on May 6, 2006; that when she returned to her seat after dancing, appellant was in her chair; that he refused to get up; that she commented that "young folks don't respect adults"; that she pushed him in reaching for her drink; that he hit her in the eye; that she fell on him, and when she did she grabbed his chain and he hit her again. She explained that the first hit dazed her, and she was just trying to grab onto something so she would not fall forward when she grabbed the chain around his neck.

Ms. Wilson stated that she had to seek treatment for her eye injuries at the hospital; that they told her her eye socket was out of place; that an eye doctor put it back in place; that the doctor told her she could not have surgery because she is diabetic; and that it would be a year before her eye would really heal.

Ms. Wilson explained that Detective Warren showed her a photo line-up; that she recognized appellant as the person who hit her; and that she called him "Awax" because

he went to school with her daughter and had been to her house several times as a teenager. She acknowledged on cross-examination that she had not seen him in a long time before the night of the incident and that all she could remember at first was his nickname, "Awax."

Megnon Parks, Edna Wilson's daughter, testified that she was at the club on the night in question for about thirty minutes; that she knew the appellant; that she grew up with him; and that they did not go to school together but "ended up in numerous places together." She stated that she knew him and recognized him on sight and that if she had seen him at the club that night, she would have talked to him. She stated that he contacted her after the incident; told her he was sorry; and asked that her mother drop the charges.

Jermaine Jackson testified that he worked at the Golden Goose checking ID's; that he was there on the night in question; that the only thing he saw was "this woman outside with a swollen eye"; and that he did not see how it happened. He explained that he stays at the door; that at most, he would only have been away from the door for twenty minutes and then it is covered by a bouncer; that two cops came and looked through the club trying to find the person who hit Ms. Wilson; and that they should have been able to find him but could not. He denied seeing appellant at the club on the night in question. On cross-examination, Jackson acknowledged that he had seen Ms. Wilson earlier in the evening and that her eye was not swollen, and that he then saw her outside later and her eye was swollen.

Ardeen Price testified that appellant is her grandson and that he has lived with her since making parole in April.

Appellant testified that his nickname is "Awax"; that on May 6 he was at his grandmother's house taking care of her; that he did not go to the Golden Goose on that night; that he was paroled to his grandmother's house on April 18 or 19, 2006; and that he did not go to the Golden Goose during that entire period, including May 6. He denied ever going to Ms. Wilson's house and also denied going to school with her daughter. He stated that he did not hit Ms. Wilson on May 6. He acknowledged getting in touch with Ms. Wilson's daughter, Megnon, to "check it out." He said that he got her number from his friend Maurice Wilson, and that he called because "I wanted to know. I was lost. I didn't know what was going on or what this charge had come from." He denied telling her to drop the charges. He acknowledged "knowing of" Megnon.

Our court has held that in order to revoke probation or a suspended sentence, the burden is on the State to prove the violation of a condition of probation or suspended sentence by a preponderance of the evidence. *Stultz v. State*, 92 Ark. App. 204, 212 S.W.3d 42 (2005). On appellate review, the trial court's findings will be upheld unless they are clearly against a preponderance of the evidence. *Id.* 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. *Id.* Because the burdens are different, evidence that is insufficient for a criminal conviction may be sufficient for a

probation revocation. *Jones v. State*, 355 Ark. 630, 144 S.W.3d 254 (2004). Thus, the burden on the State is not as great in a revocation hearing. *Id.*

Appellant contends that there was insufficient evidence to support his revocation, arguing that "there is no evidence, other than the claim of the victim, that appellant did the offense." The claim of the victim is all that is necessary. *See Galvin v. State*, 323 Ark. 125, 912 S.W.2d 932 (1996). On matters of credibility of the witnesses and conflicting testimony, we have repeatedly held that the determination of those issues is left to the trier of fact. *Id.* Further, the uncorroborated testimony of one State's witness is sufficient to sustain a conviction. *Id.* Here, the trial judge clearly found Ms. Wilson's testimony to be more credible than that of appellant. We hold that the trial court's determination that appellant violated the terms and conditions of his suspension by committing the offense of battery is not clearly erroneous. We, therefore, affirm the trial court's revocation of appellant's suspended sentence.

Affirmed.

HART and GRIFFEN, JJ., agree.