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

DIVISION I

CACR07-626

December 19, 2007

	APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT
DARYLL DEAN BOOKER APPELLANT	[CR-2000-703]
V.	HONORABLE J. MICHAEL FITZHUGH, CIRCUIT JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

Daryll Booker appeals from the revocation of his suspended imposition of sentence on a charge of possession of drug paraphernalia with intent to manufacture methamphetamine. The ten-year suspended sentence began on October 4, 2000. On October 25, 2006, the State filed its petition to revoke, alleging that appellant had violated the terms and conditions of his suspended sentence, *inter alia*, by committing the offenses of possession of methamphetamine and failing to pay ordered fines, costs, and fees. The matter was heard on March 2, 2007, and the trial court granted the State's petition. Appellant was sentenced to ten years in the Arkansas Department of Correction, followed by an additional ten-year suspended imposition of sentence. We affirm.

At the beginning of the revocation proceedings, the State introduced, with no objections, the fine and court-costs ledgers in Case Nos. 00-39 and 00-703 as State's Exhibits 1 and 2. In addition, the State introduced, with no objections, Exhibits 3, 4, and 5, which show appellant's pleas to the offenses of fleeing, refusal to submit to arrest, and driving with a suspended license — all of which occurred with respect to his initial stop by officer Jackie Davis.

Jackie Davis, Sebastian County Deputy Sheriff, testified that on October 20, 2006, he stopped appellant on a traffic violation; that in the course of a pat-down search during that stop, he recovered a "B.C. Powder" packet from appellant's back pocket that tested positive for methamphetamine; that appellant fled the scene, but Davis was able to apprehend him; and that Davis then placed him under arrest.

Detective Eric Williams testified that he received information from an anonymous source and then, later that same day, another detective received similar information from a reliable confidential informant that appellant and another man were manufacturing meth at a residence located at 1604 South W. Williams stated that the CI advised that he was going to meet appellant at a designated location; that Williams obtained a search warrant for items of drug paraphernalia used to manufacture methamphetamine; that he was present when the search warrant was executed; and that no documents were obtained at the residence indicating that appellant was a resident at that location.

Detective Wayne Barnett testified that he was part of the investigation involving appellant in January 2007; that appellant had an outstanding arrest warrant for failure to

appear; that Barnett's unit had received information for several months that indicated drugs were being manufactured, used, and sold at the 1604 South W Street location; that a reliable CI told him appellant and another person were living at that location; that the CI also told him that appellant was going to be at a certain location on January 18; that he, Barnett, was part of the team that then arrested appellant when he showed up at that location; that he Mirandized appellant; that appellant told him he lived at 1604 South W Street; that appellant also acknowledged that meth had recently been manufactured at that location and that there was a pistol at the house and maybe some paint thinner.

Barnett stated that based on appellant's arrest, they conducted a search incident to that arrest on the inside of appellant's truck; that the truck had half a bottle of muriatic acid, one bottle of Heet, some clear rubber tubing, some striker plates, a few wooden match sticks, and a roll of black electrical tape. He explained that all of those items were commonly used to manufacture meth. He said that he then placed appellant under arrest for possession of drug paraphernalia with intent to manufacture and for failure to appear.

Barnett explained that a search warrant was obtained for the 1604 South W residence; that he participated in the execution of the search warrant; that upon entry, the chemical smell was overwhelming; that evidence of a meth lab was recovered; and that he had additional contact with appellant on January 19 in the Sebastian County jail. He testified that appellant told him at that time that he had stayed at the 1604 house off and on since November 2006; that he had clothes and personal belongings there, but that he also had a trailer in Altus, Arkansas; and that he had participated in two cooks of meth

while staying at the 1604 location. Barnett acknowledged that he did not recall finding any documents that bore appellant's name at the 1604 location.

At the conclusion of the State's case, appellant moved for a directed verdict, arguing that there was no evidence presented by the State that appellant resided at the 1604 residence. The motion was denied.

The trial court concluded that appellant had violated the terms of his release, entered a judgment of conviction, and sentenced him to a term of ten years in the Arkansas Department of Correction, with the additional ten years suspended.

In this appeal, appellant contends that the State introduced nothing to prove that his failure to pay his ordered costs and fines was willful; that "there are problems" with the crime lab report concerning the B.C. Powder; that the police officers admitted that nothing was found in the residence to tie appellant to it; and that the items found in his vehicle were common items and not sufficient to establish that "criminal activity is afoot." Appellant concludes that the trial court should have dismissed the petition to revoke because it was not supported by the preponderance of the evidence. We disagree.

In a hearing to revoke, the burden is on the State to prove a violation of a condition of the 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 are upheld unless they are clearly against the preponderance of the evidence. *Id*. Because a determination of the preponderance of the evidence turns on questions of credibility and weight to be given testimony, we defer to the trial court's superior position in this regard.

Id. The State need prove only one violation in order to revoke a suspended sentence. *Id*. Evidence that may not be sufficient to convict can be sufficient to revoke because the State has a lower burden of proof in revocation cases. *Newborn v. State*, 91 Ark. App. 318, 210 S.W.3d 153 (2005).

We find no clear error in the trial court's determination that appellant violated the terms of his suspended imposition of sentence. The State presented evidence of multiple violations of the terms and conditions of appellant's suspended imposition of sentence, *e.g*., failing to pay his ordered costs and fees, as evidenced by the State's introduction of the fine and court-costs ledgers and to which appellant did not object and did not offer evidence that would justify his failure to pay; possessing methamphetamine, *i.e*., the B.C. Powder packet that tested positive for meth as shown by a crime-lab report to which appellant raised no objection; and possessing drug paraphernalia, the items found in his truck. Proof of only one violation would have been sufficient to revoke.

Affirmed.

HEFFLEY and BAKER, JJ., agree.