

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION IV

CACR07-847

June 4, 2008

STEPHAN ALLEN KING

APPELLANT

APPEAL FROM RANDOLPH  
COUNTY CIRCUIT COURT [NO.  
CR-06-127]

V.

HON. HAROLD S. ERWIN,  
JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

This appeal challenges the sufficiency of the evidence to support appellant's convictions of possession of a firearm by a felon, first-degree terroristic threatening, and second-degree terroristic threatening. We affirm.

In reviewing a challenge to the sufficiency of the evidence, we will not second-guess credibility determinations made by the fact finder. *Stone v. State*, 348 Ark. 661, 74 S.W.3d 591 (2002). Instead, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict. *Id.* We affirm the conviction if there is substantial evidence to support it. *Hughes v. State*, 74 Ark. App. 126, 46 S.W.3d 538 (2001). Substantial evidence is evidence of sufficient force and character to compel a conclusion one way or the other with reasonable certainty, without resorting to speculation or conjecture. *Crutchfield v. State*, 306 Ark. 97, 812 S.W.2d 459 (1991).

Arkansas Code Annotated section 5-73-103(a)(1) (Repl. 2005) prohibits possession of a firearm by a person who has been convicted of a felony. To prove possession of a firearm, the State must show that the defendant exercised control or dominion over it. *Loar v. State*, 368 Ark. 171, 243 S.W.3d 923 (2006). Here, Sheriff Brent Earley testified that he and other officers went to appellant's home to investigate a reported assault, and that appellant appeared on the front porch of his home with a long gun in his hand.<sup>1</sup>

Appellant argues that this evidence is not substantial because lighting conditions were such as to limit the ability of the sheriff to make an accurate observation. This argument goes to weight, not sufficiency. Although it was dark and, at one point, the sheriff was blinded by a light shone by appellant, he testified positively that he saw appellant in possession of a long gun and that appellant threatened to "blow his head off" if he did not leave appellant's property. This is substantial evidence that appellant was in possession of a firearm.

Substantial evidence also supports appellant's convictions for first and second-degree terroristic threatening. In addition to evidence that appellant, with gun in hand, made several threats to blow the sheriff's head off, there was testimony that appellant had earlier pointed a pistol at his sister and threatened to burn her house down. This is unquestionably substantial evidence to support the convictions. As to appellant's argument that there was no evidence to show that the victims were frightened, actually causing fright is unnecessary; the gravamen of the offense is the communication of the threat with the intent to terrorize another. *Smith*

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<sup>1</sup>Appellant does not challenge his status as felon on appeal; hence, the only issue before us is possession of a firearm.

*v. State*, 296 Ark. 451, 757 S.W.2d 554 (1988). A threat to shoot another person constitutes first-degree terroristic threatening. See *Richards v. State*, 266 Ark. 733, 585 S.W.2d 375 (1979); Ark. Code Ann. 5-13-301(a) (Repl. 2006). A threat to burn down a person's house is clearly a threat "to cause injury or property damage to another person" within the meaning of the second-degree terroristic threatening statute. See Ark. Code Ann. § 5-13-201(b) (Repl. 2006). That appellant's intent was to cause terror can be inferred from evidence that he was involved in an inheritance dispute with his sister, was attempting to dissuade her from probating a will, and that the initial threat occurred during a heated telephone conversation between appellant and his sister concerning the will.

Affirmed.

BIRD and VAUGHT, JJ., agree.