

**ARKANSAS COURT OF APPEALS**DIVISION IV  
No. CACR11-979LEONARD MORICE REED  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

Opinion Delivered April 4, 2012

APPEAL FROM THE GRANT  
COUNTY CIRCUIT COURT  
[No. CR-2010-102-2]HONORABLE PHILLIP H.  
SHIRRON, JUDGE

AFFIRMED

**LARRY D. VAUGHT, Chief Judge**

Appellant Leonard Morice Reed was convicted of failure to register as a sex offender. He was sentenced, following a jury trial, to a term of fifteen years' imprisonment in the Arkansas Department of Correction. On appeal he argues that the trial court abused its discretion by admitting evidence that Reed claims was more prejudicial than probative. He also claims that there was insufficient evidence to support the verdict. We affirm.

On November 13, 2010, Reed was charged by information with the offense of failure to register as a sex offender, a class D felony. On April 26, 2011, the information was amended to the offense of failure to register as a sex offender, a class C felony, and as a habitual offender. Then again, on May 4, 2011, the information was amended to the offense of failure to comply with registration and reporting requirements as a sex offender, a class C felony, and as a habitual offender. According to the allegations contained in the second amended information, on September 24, 2010, Reed was not living at the address of 2160

Highway 167 South in Grant County, Arkansas, which he had registered as his address. It was further alleged that Reed had not updated his current address and that address remained undetermined.

A jury trial was held on May 5, 2011, and during the trial Reed objected to the introduction of a December 2004 judgment and disposition order convicting him of failing to properly register as a sex offender. Specifically, he claimed that the sole purpose of the State's introduction of his prior conviction was to show that he was of bad character. The State responded that because the evidence of Reed's prior failure to register was independently relevant, it should be admitted. The trial court agreed, overruled Reed's objection, and received the prior judgment into evidence.

At the close of the State's evidence and again at the close of his case, Reed moved for a directed verdict claiming that "the evidence is insufficient to prove the crime of which he [was] charged beyond a reasonable doubt and any verdict that result[ed] in guilt would have to be based on pure speculation by the jury." The trial court refused to direct a verdict, and the jury found Reed guilty of failure to comply with sex-offender-registration requirements and imposed a fifteen-year sentence for his violation. The trial court found the verdict and sentence to be valid and sentenced him according to the findings of the jury. It is from this judgment and corresponding sentence that Reed now appeals.

Although Reed raises his sufficiency challenge as his second point on appeal, double-jeopardy concerns require that we address it first. *Harris v. State*, 284 Ark. 247, 249, 681 S.W.2d 334, 335 (1984). In so doing, we note that a general motion for directed verdict is insufficient to preserve a defendant's argument that the elements of the crime were not

proven. *Wofford v. State*, 2012 Ark. App. 14, at 1. Our rules of criminal procedure require the movant to apprise the trial court of the specific basis upon which the motion is made. Ark. R. Crim. P. 33.1 (2011). Failure to challenge the sufficiency of the evidence in the manner required by this rule constitutes a waiver of any question pertaining to the sufficiency of the evidence to support the verdict or judgment. Ark. R. Crim. P. 33.1(c). A motion for directed verdict that merely states that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency in the proof required to support the verdict. *Wofford*, 2012 Ark. App. 14, at 2.

At the close of the State's case-in-chief, Reed made the following motion:

I have a motion for a directed verdict. Comes now the defendant, Leonard Reed, by and through his attorney, Bob Frazier, and respectfully petitions and moves the Court for a directed verdict in this case on the grounds that the evidence is insufficient to prove the crime of which he is charged beyond a reasonable doubt and any verdict that results in guilt would have to be based on pure speculation by the jury. Further, movant sayeth not.

Upon the court's denial of his initial directed-verdict motion, Reed renewed his motion at the close of all evidence, stating:

We—both the prosecution and the defendant having rested, comes now Leonard Reed by and through his attorney, Bob Frazier, and for his motion for directed verdict states that there's insufficient evidence, both sides having rested, to sustain a verdict of guilt on this charge and any verdict of guilty reached by the jury under these circumstances would require pure speculation. Further sayeth not.

These directed-verdict motions do not contain any reference to a specific element of absent proof in the crimes for which Reed was charged.<sup>1</sup> Because Reed failed to apprise the

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<sup>1</sup>Reed was charged with a violation of Ark. Code Ann. § 12-12-904 (Repl. 2009), which requires that a person adjudicated guilty of a sex offense on or after August 1, 1997, commits a class C felony if he fails to comply with the registration and reporting

trial court of the specific elements that were allegedly insufficiently proven by the State, he has failed to preserve the argument for our review. Accordingly, we do not consider the merits of this argument on appeal and affirm the trial court's denials of Reed's directed-verdict motions.

Reed also claims that the trial court erred by admitting a judgment and commitment order from his 2004 conviction on a charge of failure to register. Trial courts have broad discretion in deciding evidentiary issues, and we will not reverse absent an abuse of discretion. *Ross v. State*, 96 Ark. App. 385, 391, 242 S.W.3d 298, 303 (2006). Although evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith, it may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. *Cook v. State*, 345 Ark. 264, 270, 45 S.W.3d 820, 823–24 (2001). Evidence offered under Ark. R. Evid. 404(b) must be independently relevant, thus having a tendency to make the existence of any fact that is of consequence to the determination of the action more or less probative than it would be without the evidence. Ark. R. Evid. 404(b) (2011). Further, evidence is indisputably relevant if it proves a material point and is not introduced solely to prove that the defendant is a bad person. *Davis v. State*, 362 Ark. 34, 44, 207 S.W.3d 474, 482 (2005).

Here, Reed was charged with failure to comply with the registration and reporting requirements as a sex offender, and as a habitual criminal due to his convictions for first-

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requirements codified at § 12-12-901 (Repl. 2009), including failing to report a change of address or to verify registration information.

degree rape of his ten-year-old daughter and for a previous failure-to-register conviction. At trial, the assistant police chief in the city of Sheridan, Bob Williamson, offered testimony that Reed previously failed to report a change of address to Sheridan police after his divorce and relocation to Grapevine, Arkansas. A judgment and conviction order from Reed's 2004 conviction for failing to register was then introduced into evidence over his objection, based on the State's argument that the evidence was being admitted to show "motive intent and lack of mistake as far as registration requirements" under Ark. R. Evid. 404(b).

Just prior to Williamson's testimony, Charles Simpson, a deputy with the Grant County Sheriff's Department, testified that on July 29, 2010, Reed had been notified that he was required to verify his registration information with the sheriff's office. After giving Reed a few days to comply, Simpson visited the last address that Reed had registered—2160 Highway 167 South—and discovered that the house was vacant. This house had been listed by Reed as his place of residence until he completed an address-change document on November 16, 2010, changing his address to Grapevine, Arkansas. However, Chris Teague, the owner of the house at 2160 Highway 167 South, stated that he had purchased the foreclosed property on November 6, 2009, at which time the house was vacant, and that he neither knew Reed nor observed him on the premises since Teague purchased the property in 2009. The evidence showed that Reed was claiming to live at a vacant house for over one year.

In order to show that he was aware of the registration requirements and that this was not just an administrative oversight, the State used evidence (via testimony and a judgment) that Reed had previously failed to comply with the reporting requirements—specifically the

change-of-address notification of a convicted sex-offender requirement after obtaining a divorce and moving to Grapevine, Arkansas. The State claimed, and the trial court agreed, that this evidence tended to prove that Reed did not mistakenly or accidentally register a vacant house as his residence.

We take an alternative approach to resolution of the case. Our case law directs that the sex-offender-registration requirements are mandatory and that failure to comply with those duties is a strict-liability offense. *Adkins v. State*, 371 Ark. 159, 163–66, 264 S.W.3d 523, 526–27 (2007) (holding that there is no *mens rea* component in a failure-to-register-as-a-sex-offender context). Therefore, it is the very act—or failure to act in this case—that constitutes the complete offense. He either followed the requirement mandate, or he did not.

As such, the disputed evidence of Reed’s prior violation of the registration requirement was neither prejudicial nor probative. At worst the evidence could be viewed as irrelevant or cumulative, neither of which prejudiced Reed. *Smith v. State*, 354 Ark. 226, 241, 118 S.W.3d 542, 551 (2003). In this strict-liability context, the irrelevant evidence is not prejudicial. Additionally, merely cumulative evidence is not prejudicial. *Threadgill v. State*, 347 Ark. 986, 69 S.W.3d 423 (2002). As such, we cannot say that the trial court abused its discretion in admitting proof of Reed’s prior failure to comply with the mandatory-reporting requirements set out by our legislature.

While the circuit court may have reached its decision regarding using a different analysis than this court would have had it do, the trial court nonetheless reached the right result. Even where we have disagreed with a trial court’s reasoning, we have affirmed, for a

different reason, the court's ruling for reaching the right result. *State v. Brown*, 2009 Ark. 202, at 14, 307 S.W.3d 587, 595–96.

Affirmed.

HART and ROBBINS, JJ., agree.