

# SLIP OPINION

Cite as 2012 Ark. App. 504

## ARKANSAS COURT OF APPEALS

### DIVISION II

No. CACR12-167

HENRY LEE PRIGETT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** September 19, 2012

APPEAL FROM THE CRAIGHEAD  
COUNTY CIRCUIT COURT,  
WESTERN DISTRICT  
[NO. CR-2009-802]

HONORABLE CINDY THYER,  
JUDGE

AFFIRMED

**RITA W. GRUBER, Judge**

Henry Lee Prigett appeals the Craighead County Circuit Court's revocation of his probation. He contends (1) that a store employee's testimony about a surveillance video violated his Confrontation Clause rights, and (2) that a police officer's testimony about Prigett's statements at a pretrial bond hearing violated his *Miranda* rights. For the reasons explained in this opinion, we affirm without addressing these points.

In order to revoke probation, the trial court must find by a preponderance of the evidence that the defendant inexcusably violated a condition of that probation. *Peterson v. State*, 81 Ark. App. 226, 100 S.W.3d 66 (2003). The State, which has the burden of proof, needs to prove only one violation of conditions. *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004). If the evidence is sufficient to establish that appellant committed any one of the named offenses, the trial court must be affirmed. *Farr v. State*, 6 Ark. App. 14, 636

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S.W.2d 884 (1982).

A judgment and commitment order of April 12, 2010, reflects that Prigett was sentenced to thirty-six months' supervised probation upon his negotiated plea of guilty to terroristic threatening and attempted interference with emergency communication. The probation was subject to various conditions, including that he not commit a criminal offense punishable by imprisonment and that he pay \$25 monthly payments for supervision and \$25 monthly toward specified costs, fees, and fines. The State subsequently filed a petition to revoke, alleging that Prigett violated conditions by owing \$511 on previously ordered payments and by committing robbery, theft, and fleeing—offenses that stemmed from an incident at the Dollar General Store in Jonesboro.

At the revocation hearing on November 14, 2011, the State introduced testimony about the Dollar Store incident and, without objection from Prigett, introduced a ledger sheet from the Craighead County Sheriff's Department showing that he had made only three payments totaling \$175. Prigett testified in his own defense, disputing the criminal charges but not the failure to pay. The circuit court, upon finding that Prigett violated conditions by committing the criminal offenses alleged and by failing to pay, revoked probation and imposed a sentence of seventy-two months' imprisonment for terroristic threatening.

Once the State introduced the ledger sheets showing a balance due, the burden shifted to Prigett to justify his failure to pay. *See Williams v. State*, 2012 Ark. App. 298, at 3. We will not reverse a decision of the trial court when the appellant fails to attack the trial court's independent, alternative basis for its ruling. *Pugh v. State*, 351 Ark. 5, 89 S.W.3d 909 (2002);

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*Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000). Because Prigett does not challenge the sufficiency of the evidence to support the finding that he failed to pay as ordered, and because the evidence is sufficient to establish this violation of conditions, we affirm.

Affirmed.

HART and WYNNE, JJ., agree.

*Paul J. Teufel*, for appellant.

*Dustin McDaniel*, Att'y Gen., by: *Christian Harris*, Ass't Att'y Gen., for appellee.