

ARKANSAS COURT OF APPEALSDIVISION I
No. CACR12-515

ESKER MARTIN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered FEBRUARY 13, 2013APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
FOURTH DIVISION
[NO. CR-08-4555]HONORABLE HERBERT WRIGHT,
JUDGE

AFFIRMED

BILL H. WALMSLEY, Judge

Appellant Esker Martin appeals from the revocation of his probation. He argues that the conditions of his probation were not enforceable because they were not signed by a judge. We affirm.

On April 28, 2009, appellant was sentenced to four months' imprisonment and five years' probation upon pleading guilty to two counts of terroristic threatening. On March 26, 2010, the State filed a petition to revoke appellant's probation, alleging that he had failed to report to his probation officer and failed to pay supervision fees. Appellant pled guilty to violating his probation and was sentenced to six years' probation on May 11, 2010. On August 19, 2011, the State filed a petition to revoke, alleging that appellant had (1) committed the offense of theft of property on two occasions; (2) committed the offense of aggravated assault; (3) failed to report weekly; and (4) failed to make monthly payments on supervision

fees.

A revocation hearing was held on January 30, 2012. Appellant's conditions of probation were admitted into evidence. At the conclusion of the State's case, appellant moved to dismiss, arguing that his conditions of probation were invalid because the document had not been signed by the trial court. The State responded that appellant was aware of the rules he was required to follow. The trial court denied the motion. Appellant later renewed his motion, but the trial court revoked his probation based on the commission of new criminal offenses. Appellant was sentenced to eighteen months' imprisonment. He filed a timely notice of appeal.

Appellant argues that because the place for the judge's signature on his conditions of probation was left blank, the document did not comply with the "written statement" requirement of Arkansas Code Annotated section 5-4-303(e) (Supp. 2011). This statute provides that if the court places a defendant on probation, "the defendant shall be given a written statement explicitly setting forth the conditions under which he or she is being released." Appellant claims that the statute implies that the conditions are adopted and made part of probation only upon the court's signature. Appellant also argues that there was no evidence that he was aware of the specific condition that he not violate the law, that the applicable conditions were not circled, and that the document was not file-marked.

We agree with the State that section 5-4-303(e) does not require that the conditions of probation be signed by a judge. Furthermore, appellant does not dispute that he received the statement of conditions, and his signature is on the document above an acknowledgment

that he had received a copy of the document, that it had been explained to him, and that he understood it. As such, there was no error and no prejudice due to the omission of the judge's signature. Appellant's other complaints about the statement of conditions of probation were not raised below and thus, not preserved for our review. See *Scroggins v. State*, 2012 Ark. App. 87, ___ S.W.3d ___.

Affirmed.

GLADWIN, C.J., and PITTMAN, J., agree.

William R. Simpson, Jr., Public Defender, by: *Margaret Egan*, Deputy Public Defender, for appellant.

Dustin McDaniel, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.