

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-12-963

EDWARD EMERSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered November 20, 2013

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[NO. 23CR-11-1059]

HONORABLE DAVID L.
REYNOLDS, JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

This case is before our court a second time; originally it was filed as a no-merit *Anders* brief. On May 22, 2013, our court denied counsel's motion to withdraw, remanded to settle the record, and ordered rebriefing. *Emerson v. State*, 2013 Ark. App. 340. Counsel has now filed a brief in merit format, arguing that the circuit court erred in admitting police reports containing hearsay into evidence. We affirm.

In April 2012, appellant Edward Emerson was convicted in a bench trial of two offenses—aggravated assault on a family or household member and terroristic threatening in the first degree. He was sentenced to concurrent ten-year sentences. As a result of being convicted of these offenses, the trial court also revoked Emerson's suspended sentences in two 2003 cases and sentenced him to three years' imprisonment for each offense, with those sentences to each run consecutively to the concurrent ten-year sentences.

In the present appeal, Emerson argues that the circuit court erred in admitting police reports involving Emerson into evidence because the reports contained hearsay in violation of Rule 801 of the Arkansas Rules of Evidence, violated his right to confront witnesses, and were more prejudicial than probative, thus violating Rule 403 of the Arkansas Rules of Evidence. These arguments are directed to Emerson's aggravated-assault and terroristic-threatening convictions—he specifically states in his argument that the issues surrounding the revocation of his suspended sentences are not the basis for appeal.

Emerson's arguments are not preserved for appeal. At trial, the State moved to introduce as an exhibit *for the purpose of revocation* police reports referenced in the victim's testimony. Emerson's counsel stated that the officers were not present to testify and objected on the basis of hearsay. The trial court allowed the police reports to be admitted.

In order to preserve an issue for appellate review, it must be raised to the trial court and ruled on. *Hinojosa v. State*, 2009 Ark. 301, 319 S.W.3d 258. The only objection Emerson made below was hearsay; he never raised to the trial court any Confrontation Clause argument or Rule 403 issue. Moreover, the State specifically moved to admit the police reports for purposes of revocation only—Emerson never argued to the trial court that the admission of the reports was improper hearsay with regard to the aggravated-assault or terroristic-threatening charges, and he specifically states in his brief that the revocation of his suspended sentences is not the basis for his appeal. Therefore, none of Emerson's arguments are preserved for appeal, and we affirm.

Affirmed.

SLIP OPINION

Cite as 2013 Ark. App. 691

HIXSON and WOOD, JJ., agree.

Lorie L. Mason, for appellant.

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