ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JUDGE DAVID M. GLOVER

DIVISION II

CACR07-1129

June 25, 2008

	APPEAL FROM THE BENTON COUNTY CIRCUIT COURT
TANYA SCHWELLINGER-AGUIRRE APPELLANT	[CR 2000-991-1(A)]
V.	HONORABLE TOMMY J. KEITH, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED; MOTION GRANTED

Following a revocation hearing on July 9, 2007, the trial court determined that appellant, Tanya Schwellinger-Aguirre, had violated the terms and conditions of her probation for the underlying offense of possession of drug paraphernalia. The trial court revoked her probation and sentenced her to six years in the Arkansas Department of Correction, with credit for 211 days.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(j) of the Rules of the Arkansas Supreme Court and Court of Appeals, appellant's attorney has filed a motion to withdraw as counsel on the ground that the appeal is wholly without merit. The motion is accompanied by an abstract, brief, and addendum referring to everything in the record that might arguably support the appeal, including all motions, objections, and requests decided

adversely to appellant and a statement of reasons why none of those rulings would be a meritorious ground for reversal. The clerk of this court furnished appellant with a copy of her counsel's brief and notified her of her right to file a *pro se* statement of points for reversal within thirty days, but she did not file any points for reversal.

The only adverse decision in this case involves the actual revocation of appellant's probation. Even though appellant did not challenge the sufficiency of the evidence at the revocation hearing, it is not necessary to do so in order to preserve the issue for appeal. *Nelson v. State*, 84 Ark. App. 373, 141 S.W.3d 900 (2004). Consequently, appellant's counsel was correct in addressing the issue. In testing the sufficiency of the evidence to support a revocation, we do not reverse the trial court's decision unless its findings are clearly against the preponderance of the evidence. *Gossett v. State*, 87 Ark. App. 317, 191 S.W.3d 548 (2004). In making our review, we defer to the superior position of the trial court to determine questions of credibility and the weight to be given to the evidence. *Id*. Evidence that is insufficient for a criminal conviction may be sufficient for a probation revocation. *Morgan v. State*, 73 Ark. App. 107, 42 S.W.3d 569 (2001).

Here, the amended petition to revoke listed ten alleged violations of the conditions of appellant's probation. At the hearing, the trial court asked appellant if she admitted or denied the allegations of probation violations. She responded in pertinent part, "I admit I did the last four. I admit the battery charge and I might have failed to report to my probation officer one time." The State only has to show that appellant committed one violation of the conditions of his probation in order to support a revocation. *Richardson v. State*, 85 Ark. App.

347, 157 S.W.3d 536 (2004). Consequently, the trial court's decision to revoke appellant's probation is not clearly erroneous.

From our review of the record and the brief presented to us, we find compliance with Rule 4-3(j) and that the appeal is without merit. Accordingly, the judgment of conviction is affirmed, and counsel's motion to withdraw is granted.

BIRD and MARSHALL, JJ., agree.