

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ERIC D. GREEN,	§
	§
Defendant Below-	§ No. 244, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID Nos. 9707017752 and
Plaintiff Below-	§ 9708010456
Appellee.	§

Submitted: July 13, 2007

Decided: September 25, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

**ORDER**

This 25th day of September 2007, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Eric Green, filed this appeal from the Superior Court's order sentencing him for violating the terms of his probation. Green argues in his opening brief that there was no competent evidence to support the Superior Court's conclusion that Green had violated his probation and that the Superior Court failed to state the basis for its finding of a VOP. We find no merit to Green's appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that a Superior Court jury convicted Green in July 1998 of two counts of Unlawful Sexual Contact in the Second Degree. He was sentenced in September 1998 to a total period of four years at Level V imprisonment, to be suspended after serving two years for two years at decreasing levels of supervision. In October 1998, another Superior Court jury convicted Green of Unlawful Sexual Intercourse in the Third Degree. He was sentenced on that charge to ten years at Level V imprisonment, to be suspended after serving eighteen months for five and a half years at decreasing levels of supervision.

(3) Thereafter, Green was found in violation of the terms of his probation in December 2001, February 2003, July 2004, and October 2004. In April 2006, the Superior Court found that Green had violated a special condition of his probation by having contact with children. The Superior Court sentenced him on this violation to serve eight and a half years at Level V supervision, to be suspended after serving three years for decreasing levels of supervision. This appeal followed.

(4) In his opening brief on appeal, Green asserts that the evidence presented against him at the contested VOP hearing was insufficient to support the Superior Court's finding of a violation. Green asserts that the testimony of the State's sole eyewitness, his girlfriend's mother, was

incompetent because she could not specify any particular dates when she saw Green in the company of her grandchildren. Green also argues that the Superior Court erred in “failing to state the evidence relied upon or the reason for revoking [his] probation.”

(5) After careful consideration of the parties’ briefs and the record on appeal, we find it manifest that the judgment of the Superior Court should be affirmed. The Superior Court did not abuse its discretion in finding Green guilty of violating probation because the eyewitness testimony presented at the hearing was more than sufficient to establish the violation by a preponderance of the evidence.<sup>1</sup> Moreover, the transcript of the VOP hearing clearly reflects the Superior Court’s conclusion, by a preponderance of the evidence, that Green was in violation of the terms of his probation because he had had contact with children. Accordingly, Green’s second claim is without merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>1</sup> See *Kurzmann v. State*, 903 A.2d 702, 718 (Del. 2006).