

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROGER E. VILLWOCK, III,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D12-4970

Opinion filed October 4, 2013.

Appeal from the Circuit Court for Lee
County; Edward J. Volz, Jr., Judge.

Howard L. Dimmig, II, Public Defender, and
Richard J. Sanders, Assistant Public
Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Tonja Rene Vickers,
Assistant Attorney General, Tampa, for
Appellee.

MORRIS, Judge.

Roger E. Villwock, III, appeals the revocation of his probation for the offense of failing to register as a sex offender. We agree with Villwock's argument that the State failed to prove that Villwock violated his probation by committing the new offense of failing to register as a sex offender in Michigan. But the State proved by a

preponderance of the evidence that Villwock willfully and substantially violated his probation by failing to report to his probation officer on two different occasions and by changing his residence without his probation officer's consent, and it is clear from the record that the trial court would have revoked Villwock's probation based on these three violations. See Tirado v. State, 69 So. 3d 1005, 1006 (Fla. 2d DCA 2011).

Therefore, we affirm the order revoking probation but remand for the trial court to strike the new law offense violation from the order of revocation. See id. We also note that the order of revocation states that Villwock "admitted to all the allegations of violations of probation" and that the court "accepted the admissions to the violations." On remand, the trial court should correct the order to reflect that Villwock contested the violations and that the three violations were proven by the State.

Affirmed; remanded with instructions.

VILLANTI and LaROSE, JJ., Concur.