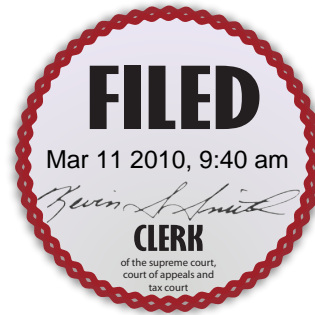


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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JASON PRESSLEY, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 49A02-0908-CR-792

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Steven R. Eichholtz, Judge  
Cause No. 49G20-0709-FA-194435

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**March 11, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## **Case Summary**

Jason Pressley (“Pressley”) appeals the revocation of his probation and order that he serve the remainder of his suspended six-year sentence for Possession of Cocaine. We affirm.

## **Issue**

Pressley presents a single issue for review: whether the evidence is sufficient to support the revocation of probation.

## **Facts and Procedural History**

In 2007, Pressley pleaded guilty to Possession of Cocaine. He received a six-year sentence, which was suspended to probation upon a petition for modification of his sentence. On June 1, 2009, the State filed a Notice of Probation Violation alleging that Pressley had committed domestic battery. On July 23, 2009, the trial court conducted a hearing. Subsequently, the trial court revoked Pressley’s probation and ordered that he serve his suspended sentence. Pressley now appeals.

## **Discussion and Decision**

Pressley challenges the sufficiency of the evidence to support the revocation of his probation, claiming that an arrest alone is insufficient and the underlying criminal charge of domestic battery was dismissed. A probation revocation hearing is in the nature of a civil proceeding and, therefore, a violation need only be proven by a preponderance of the evidence. Washington v. State, 758 N.E.2d 1014, 1016 (Ind. Ct. App. 2001). In determining whether there is sufficient evidence to support a probation revocation, we use the same

standard of review as with other sufficiency matters. Downs v. State, 827 N.E.2d 646, 651 (Ind. Ct. App. 2005), trans. denied. We will consider only the evidence most favorable to the State, along with the reasonable inferences that may be drawn therefrom. Id.

The mere fact of an arrest will not support the revocation of probation. Tillberry v. State, 895 N.E.2d 411, 417 (Ind. Ct. App. 2008). However, where there is evidence presented at the probation revocation hearing from which the trial court could find that an arrest was reasonable and that there is probable cause to believe that a defendant violated a criminal law, revocation of probation is permitted. Downs, 827 N.E.2d at 651.

The State alleged that, while on probation, Pressley had committed new criminal offenses, that is, he had battered his domestic partner and her son. A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery. Ind. Code § 35-42-2-1.

At Pressley's probation revocation hearing, Indianapolis Metropolitan Police Officer Randall Denny testified that he was dispatched on May 27, 2009 to respond to a report of a domestic disturbance at 359 South Ritter Avenue. When Officer Denny arrived, he encountered Pressley and a woman seated in a vehicle in the driveway. The woman, identified by Officer Denny as Ms. Conig, had a red mark under her left eye and a red mark on her nose. It appeared that she had been crying. She reported to Officer Denny that she and Pressley lived together and that Pressley had struck her during an argument. While they were talking, Ms. Conig's son came out of the house, yelling that Pressley had struck both him and his mother. He also reported that Pressley grabbed a cell phone out of his hand

when he attempted to call 9-1-1.

Additionally, the State submitted into evidence photographs depicting various injuries to Ms. Conig's face. Officer Denny testified that the photographs depicted the injuries that he had personally observed. There is sufficient evidence from which the trial court could find that Pressley violated a condition of his probation by committing a new criminal offense.

The trial court properly revoked Pressley's probation and ordered that he serve the remainder of his suspended sentence.

Affirmed.

BAKER, C.J., and ROBB, J., concur.