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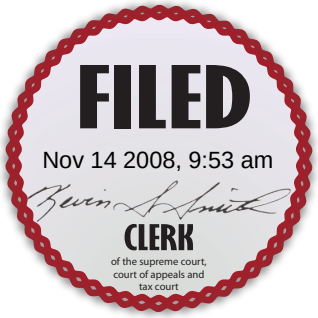

IN THE
COURT OF APPEALS OF INDIANA

CHRISTOPHER MCCROY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0803-CR-297
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Rubick, Commissioner
The Honorable Robert R. Altice, Jr., Judge
Cause No. 49G02-0703-FB-35148

November 14, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Christopher McCroy appeals the revocation of his probation and the order to serve his previously suspended eight-year sentence. He raises the following two issues:

I. Whether sufficient evidence was presented to support the revocation of his probation; and

II. Whether the trial court abused its discretion when it ordered the execution of his previously suspended sentence.

We affirm.

FACTS AND PROCEDURAL HISTORY

Pursuant to a plea agreement, McCroy pleaded guilty to conspiracy to commit robbery as a Class B felony and was sentenced to eight years, with the full eight years suspended, and ordered to serve three years of probation. *Appellant's App*. at 55. Three months later, the probation department filed a notice of McCroy's violation of probation. *Id.* at 57. After a hearing, the trial court found McCroy in violation, revoked his probation, and ordered him to serve his eight-year sentence. *Tr.* at 50. McCroy now appeals.

DISCUSSION AND DECISION

An appellee's brief was not filed in this case. "When an appellee fails to submit a brief in accordance with our rules, we need not undertake the burden of developing an argument for the appellee." *State v. Straub*, 749 N.E.2d 593, 596 n.1 (Ind. Ct.. App. 2001). "Indiana courts have long applied a less stringent standard of review with respect to showings of reversible error when an appellee fails to file a brief." *Id.* "Thus, we may reverse the trial court if the appellant is able to establish prima facie error." *Id.*

I. Sufficient Evidence

McCroy first contends that the State presented insufficient evidence to support the revocation of his probation. Our standard of review in such cases is well settled. "When reviewing the sufficiency of the evidence to support a probation revocation, we neither reweigh the evidence nor reassess the credibility of the witnesses." *Packer v. State*, 777 N.E.2d 733, 740 (Ind. App. 2002). "Rather, we look at the evidence most favorable to the State." *Id.* "If there is substantial evidence of probative value to support the trial court's finding that a probation violation occurred, we must affirm the trial court's decision." *Id.*

Before a trial court may revoke a defendant's probation, the State must prove a violation of probation by a preponderance of the evidence. IC 35-38-2-3(e). "Violation of a single condition of probation is sufficient to revoke probation." *T.W. v. State*, 864 N.E.2d 361, 364 (Ind. Ct. App. 2007), *trans. denied*. In this case, the order of probation set forth several conditions, including, among other things, that McCroy "submit to drug and alcohol testing at $10.00 per test" and participate in substance abuse evaluation and treatment. *Appellant's App*. at 55. The State offered the testimony of a representative of the probation department who outlined several instances where McCroy failed to report to the drug lab for urine screens. McCroy claimed that he did report on at least one occasion, but that he did not have the money to pay for the screens. The probation representative also testified that McCroy had not complied with a substance abuse treatment program by failing to attend after the first two meetings. McCroy offered no explanation as to why he stopped attending, but claimed that he had subsequently re-enrolled in the program. We find that McCroy's own admission of violations of his probation conditions, combined with the testimony of the probation department representative, are sufficient evidence for a reasonable trier of fact to

find him in violation of his probation.

II. Sentencing

McCroy next contends that the trial court abused its discretion when it ordered the execution of his suspended sentence. We review a trial court's sentencing decision in a probation revocation proceeding for an abuse of discretion. *Abernathy v. State*, 852 N.E.2d 1016, 1020 (Ind. Ct. App. 2006).

McCroy contends, relying solely on *Anglemyer v. State*, 868 N.E.2d 482, 490-91 (Ind. 2007), that the trial court abused its discretion when it failed to "enter a sentencing statement that explained its reason for imposing" the eight-year sentence. *Appellant's Br.* at 11. However, the requirements set forth in *Anglemyer* apply to the initial imposition of sentence. Here, the trial court merely reinstated an already imposed sentence, and McCroy cannot now challenge its propriety. "A defendant may not collaterally attack a sentence on appeal from a probation revocation." *Jones v. State*, 838 N.E.2d 1146, 1148 (Ind. Ct. App. 2005). Therefore, we find no abuse of discretion.

Affirmed.

VAIDIK, J., and CRONE, J., concur.