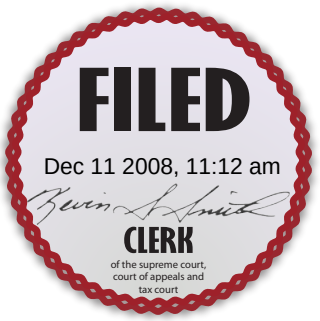

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IN THE
COURT OF APPEALS OF INDIANA

EDWARD HENLEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-0805-CR-235
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Diane Ross Boswell, Judge
Cause No. 45G03-0702-FB-00017

December 11, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Edward Henley ("Henley") appeals from Lake Superior Court following the revocation of his probation and the imposition of the remainder of his previously suspended sentence. Concluding that sufficient evidence was presented to support the probation revocation, we affirm.

Facts and Procedural History

On July 2, 2007, White pleaded guilty to Class B felony possession of a narcotic drug and was sentenced to six years in the Department of Correction to be served as twenty-four months executed, the following fifteen months to be served in community corrections forensic diversion program, and the remaining thirty-three months suspended to probation. On January 18, 2008, Henley was denied entry into the forensic diversion program and placed in the community corrections work program. On February 18, 2008, the work program asked the trial court to expel Henley from the program based on a urine test that showed the presence of cocaine. Following a hearing on April 3, 2008, the trial court removed Henley from the work program and ordered Henley to serve the remainder of his sentence in the Department of Correction. Henley appeals.

Discussion and Decision

Henley argues that the trial court abused its discretion when it determined that sufficient evidence existed that he violated his probation. A probation hearing is civil in nature, and the alleged violation must be proven by the State by a preponderance of the evidence. Braxton v. State, 651 N.E.2d 268, 271 (Ind. 1995). When reviewing a claim of insufficient evidence to support a trial court's decision to revoke probation, we will not reweigh the evidence nor judge the credibility of witnesses. Id. We will consider all the

evidence most favorable to the judgment of the trial court, and if there is substantial evidence of probative value to support the trial court's conclusion that a probationer has violated any condition of probation then we will affirm the decision to revoke probation. Id.

We note that proof of just one probation violation is sufficient to revoke a defendant's probation. Jones v. State, 689 N.E.2d 759, 761 (Ind. Ct. App. 1997). If an individual has violated a condition of probation at any time before the termination of the probationary period, the trial court may order execution of the sentence that was suspended at the time of the initial sentencing. Ind. Code § 35-38-2-3(g)(3) (2004 & Supp. 2007).

Henley acknowledges the Indiana Supreme Court's opinion in Cox v. State, 706 N.E.2d 547, 552 (Ind. 1999), which holds that a positive test for narcotics is sufficient to support a revocation of placement by the trial court. Hensley, however, invites us to impose a higher standard than that imposed by our supreme court because of the significant loss of liberty involved in the revocation of probation. However, we are bound by the decisions of our supreme court. See In re Petition to Transfer Appeals, 202 Ind. 365, 376, 174 N.E. 812, 817 (1931). The precedent our supreme court establishes is binding upon us until it is changed either by that court or by legislative enactment. Id.

Affirmed.

BAKER, C.J., and BROWN, J., concur.