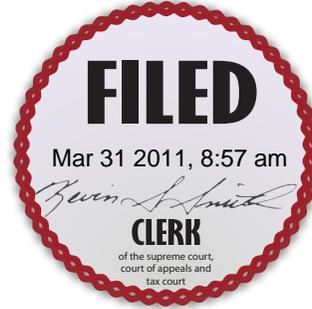


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

**ELLEN F. HURLEY**  
Marion County Public Defender  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**  
Attorney General of Indiana

**ANDREW R. FALK**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

PERRY ROBERSON, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A04-1006-CR-389  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Amy J. Barbar, Magistrate  
The Honorable Carol J. Orbison, Judge  
Cause Nos. 49G22-0708-FB-163444, 49G22-0708-FB-163384

---

**March 31, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

Perry Roberson challenges the sufficiency of the evidence to support the revocation of his probation. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Roberson agreed to plead guilty to two counts of Class C felony battery<sup>1</sup> and two counts of Class D felony criminal confinement<sup>2</sup> stemming from two incidents of domestic violence. The trial court sentenced him to four years, with two years suspended to probation. The special conditions of his probation required him to complete a substance abuse evaluation and obtain treatment if necessary, attend domestic violence and anger control counseling, and comply with a no-contact order with the victim.

On April 30, 2010, the probation department alleged Roberson: (1) violated his no-contact order with the victim, (2) did not comply with the domestic violence counseling program, (3) did not communicate truthfully with his probation officer, (4) did not provide a valid address to the probation department, and (5) did not comply with his financial obligations.<sup>3</sup> Roberson admitted to the second and fifth allegations.

The trial court accepted Roberson's admissions and found the State had met its burden of proving he violated the no-contact order. The court ordered Roberson to serve the remainder of his sentence incarcerated.

### **DISCUSSION AND DECISION**

When reviewing whether the evidence was sufficient to revoke probation, we do

---

<sup>1</sup> Ind. Code § 35-42-2-1.

<sup>2</sup> Ind. Code § 35-42-3-3.

<sup>3</sup> The Court ordered Roberson to pay Administrative Fees, Probation User Fees, and Court costs. He also had an outstanding balance for court-ordered outpatient counseling.

not reweigh evidence or judge the credibility of witnesses. *Morgan v. State*, 691 N.E.2d 466, 468 (Ind. Ct. App. 1998). If there is substantial evidence of probative value to support by a preponderance of the evidence the conclusion that the defendant has violated a term of probation, we will affirm. *Meniffee v. State*, 600 N.E.2d 967, 970 (Ind. Ct. App. 1992), *clarified on denial of reh'g on other grounds*, 605 N.E.2d 1207 (Ind. Ct. App. 1993).

The victim testified Roberson had, in violation of a no-contact order, lived with her from May 2009 to February 2010. Roberson notes “[t]he only evidence that [he] . . . violated the no-contact order was [the victim’s] testimony. No friend, neighbor or family member testified to knowledge of Mr. Roberson living with [the victim].” (Br. of Appellant at 10.) However, we may not “weigh the evidence nor judge the credibility of the witnesses.” *See Meniffee*, 600 N.E.2d at 970. The victim’s testimony that she and Roberson lived together during the time the order was in effect was sufficient to support the conclusion Roberson violated the no-contact order,<sup>4</sup> and we decline Roberson’s invitation to reweigh the evidence. We accordingly cannot say the trial court abused its discretion in revoking Roberson’s probation.

Affirmed.

FRIEDLANDER, J., and MATHIAS, J., concur.

---

<sup>4</sup> At the revocation hearing, Roberson admitted he did not comply with the domestic violence counseling program or meet the financial obligations imposed as a condition of probation, but he testified hospitalizations and health issues had kept him from working during probation. On appeal, Roberson notes it would be improper to send him back to prison for a failure to pay those costs, *see* Ind. Code § 35-38-2-3(1), but then acknowledges: “Nevertheless, it is not these two admitted violations that the court seem[ed] concerned with. . . . Rather, it is the alleged violation of the no-contact order that was the basis for the court’s finding of probation violation.” (Br. of Appellant at 8-9.) Thus, we address only whether revocation was appropriate based on the violation of the no contact order.