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**JUSTIN F. ROEBEL**  
Deputy Attorney General  
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**IN THE  
COURT OF APPEALS OF INDIANA**

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STEVEN WINNERS, )

Appellant-Defendant, )

vs. )

STATE OF INDIANA, )

Appellee-Plaintiff. )

No. 02A03-0712-CR-553

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Robert J. Schmoll, Magistrate  
Cause No. 02D04-0412-FC-217

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**April 30, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Steven Winners's ("Winners") probation was revoked in Allen Superior Court and the trial court ordered him to serve his previously suspended aggregate six-year sentence in the Indiana Department of Correction. Winners appeals and argues that the State presented insufficient evidence to support the revocation of his probation. We affirm.

### **Facts and Procedural History**

In 2005, Winners pleaded guilty to six counts of Class C felony forgery. He was sentenced on all counts to concurrent eight-year terms, with six years suspended and two years to be served in community corrections. He was also ordered to serve four years on probation.

On July 6, 2007, the State filed a petition for revocation of probation alleging that Winners committed the offense of unauthorized absence from home detention, did not successfully complete the Allen County Re-Entry Court program, did not successfully complete the Allen County Community Control Program, and had contact with minor children violating Rule 8 of the Addendum Order of Probation. Appellant's App. pp. 24-25. An amended petition for revocation of probation was filed on August 10, 2007, and the following allegation was added: The probationer was at an unapproved location, while on electronic monitoring, and attempted to make contact with a minor child, age 9, by offering her a ride in the car he was driving." Id. at 27.

A probation revocation hearing was held on September 6, 2007. The court revoked Winners's probation after finding that Winners had contact with minor children, that he violated the community control program by being in an unauthorized location on July 2, 2007, and that he committed the offense of unauthorized absence from home

detention on July 4, 2007. The court ordered him to serve his previously suspended six-year sentence on each count, to be served concurrently. Winners now appeals. Additional facts will be provided as necessary.

### **Discussion and Decision**

Winners argues that the State presented insufficient evidence to support the revocation of his probation. A defendant is not entitled to probation, but rather such placement is a matter of grace and a conditional liberty which is a favor, not a right. Jones v. State, 838 N.E.2d 1146, 1148 (Ind. Ct. App. 2005). 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. Thornton v. State, 792 N.E.2d 94, 96 (Ind. Ct. App. 2003). “It is well settled that violation of a single condition of probation is sufficient to revoke probation.” Gosha v. State, 873 N.E.2d 660, 663 (Ind. Ct. App. 2007).

We review a trial court’s decision to revoke probation for an abuse of discretion. Jones, 838 N.E.2d at 1148. Upon review of the trial court’s decision to revoke probation, we will consider only the evidence most favorable to supporting the trial court’s judgment without reweighing that evidence or judging the credibility of witnesses. Cox v. State, 706 N.E.2d 547, 551 (Ind. 1999). If there is substantial evidence of probative value to support the trial court’s conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation. Id.

First, Winners argues that the State failed to prove that he violated home detention by being in an unauthorized location on July 2, 2007. Specifically, he asserts that the State

presented no evidence that the electronic monitoring device alerted anyone from Allen County Community Corrections that Winners was away from his home, that he was out of range of his monitor, that the monitoring system was reliable, whether he had the permission to be at the trailer park, or that there were any recorded time checks of his whereabouts for this date.

Br. of Appellant at 6.

Winners does not dispute that he was on home detention on July 2, 2007. Winners's probation officer testified that the trailer park was "a location that was unauthorized by home detention because [Winners] was on community control at that time." Tr. p. 45. Diana Arismentiz, who resides in the trailer park, testified that Winners visited her trailer on July 2, 2007, and Winners told her he was on his way to a home detention meeting. Tr. pp. 6-8. This evidence is sufficient to establish that Winners was in an unauthorized location on July 2, 2007, and therefore, the trial court did not abuse its discretion when it revoked his probation.<sup>1</sup>

Winners also argues that "the State has failed to show that Winners was guilty of any of the allegations because no probationary rules were introduced into evidence." Br. of Appellant at 8. Winners concedes that certain rules or conditions were referred to during the course of the revocation hearing, but argues that the specific rules were not admitted into evidence. We disagree and conclude that Winners's probation officer's testimony describing certain conditions of Winners's home detention and probation (or in

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<sup>1</sup> Because a single violation is sufficient to revoke probation, we need not address Winners's challenge to the sufficiency of the evidence on the remaining violations.

some instances Winners's own testimony concerning the conditions of his probation) is sufficient evidence to establish the conditions of probation that Winners violated.

Affirmed.

MAY, J., and VAIDIK, J., concur.