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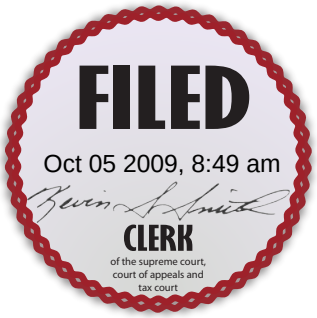

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IN THE
COURT OF APPEALS OF INDIANA

NICHOLAS LISS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 48A04-0905-CR-279
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0807-FA-400

OCTOBER 5, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

HOFFMAN, Senior Judge

Appellant-Defendant Nicholas Liss appeals the trial court's revocation of his probation.

We affirm.

Liss presents two issues for our review, which we restate as:

I. Whether the trial court improperly relied upon Liss' failure to pay fees and costs as a basis for the revocation of his probation.

II. Whether the trial court erred by admitting into evidence the results of Liss' drug test.

In 1998, Liss pleaded guilty to and was convicted of burglary, as a Class B felony and theft as a Class D felony. He was sentenced to a total of fifteen years with three years executed followed by ten years of probation. In July 2000, a notice of probation violation was filed. The court determined that Liss had violated his probation and ordered him to serve four years of his previously suspended sentence. Upon completion of the four years, Liss was ordered to resume probation. A second notice of probation violation was filed in August 2006, to which Liss admitted. The court advised Liss to make substantial progress in paying restitution but imposed no sanctions.

A third notice of violation was filed against Liss in December 2007. He again admitted a violation, and the court imposed no sanctions. In July 2008, a fourth notice of probation violation was filed, and Liss admitted to the violation. The court imposed no sanctions but modified the terms of Liss' probation. Finally, in November 2008, the fifth and current notice of probation violation was filed. Liss admitted to four of the five alleged violations, and he presented evidence as to the fifth violation. The court

determined that he had violated his probation as to all five allegations and ordered him to serve seven years of his previously suspended sentence. It is from the finding of these violations of probation that Liss now appeals.

Liss first contends that the trial court improperly relied upon his failure to pay fees and costs as a basis for the revocation of his probation. Liss bases his argument on Ind. Code §§ 35-38-2-3 (f) and (l), which provide, respectively:

> Probation may not be revoked for failure to comply with conditions of a sentence that impose financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.
>
> Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

The decision to revoke a defendant's probation is a matter within the sound discretion of the trial court. *Woods v. State*, 892 N.E.2d 637, 639 (Ind. 2008). Thus, on appeal, we review the trial court's decision for an abuse of that discretion. *Id*.

We first note that violation of a single condition of probation is sufficient to revoke probation. *See Baxter v. State*, 774 N.E.2d 1037, 1044 (Ind. Ct. App. 2002), *trans. denied*. The trial court in this case found and Liss admitted that he had violated his probation by failing to timely report to the probation department and failing to obtain a substance abuse evaluation and comply with treatment, as ordered. The trial court also found that Liss had violated his probation by failing to provide a urine sample for a drug screen on November 13, 2008. Thus, Liss admitted to and was found to have committed

several violations, any one of which could have served as the basis for the court's revocation. The trial court's decision was within its discretion, and it acted properly in revoking Liss' probation.

As his second allegation of error, Liss asserts that the trial court erred by admitting into evidence the results of his drug screen. Particularly, Liss claims that the report regarding the results of his drug screen was unreliable.

At the revocation hearing, Liss objected to the report based upon his inability to cross examine the author. Tr. at 14. On appeal, however, he objects to the trial court's admission of the report based upon its lack of reliability. A party may not object on one ground at trial and raise a different basis for error on appeal. *Collins v. State*, 835 N.E.2d 1010, 1016 (Ind. Ct. App. 2005), *trans. denied*. Moreover, in his brief to this Court, Liss concedes that he failed to object to the reliability of the report at the revocation hearing. *See* Appellant's Brief at 12-13. Therefore, the issue is waived for review.

In addition, we briefly note that although Liss mentioned his inability to cross examine the author of the drug screen report, his brief reference amounted to neither an argument on this basis nor citation to any authority. Generally, a party waives an issue raised on appeal where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the documents on appeal. *Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005), *trans. denied*.

Based upon the foregoing discussion and analysis, we conclude that the trial court properly revoked Liss' probation and that Liss waived any argument regarding the reliability of the drug screen report.

Affirmed.

DARDEN, J., and RILEY, J., concur.