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**IN THE  
COURT OF APPEALS OF INDIANA**

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FLORA ANN RICHEY,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 02A05-0706-CR-317

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Robert J. Schmoll, Magistrate  
Cause No. 02D04-0307-FB-120

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**October 18, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**KIRSCH, Judge**

Flora Ann Richey appeals the revocation of her probation. Richey raises one issue on appeal, which we restate as: whether the State presented sufficient evidence to demonstrate that Richey violated the conditions of her probation by failing to complete counseling.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

In September, 2003, Richey pled guilty to Count I, dealing in cocaine or narcotic drug,<sup>1</sup> a Class B felony; Count II, possession of cocaine or narcotic drug,<sup>2</sup> a Class D felony; and Count III, reckless possession of paraphernalia,<sup>3</sup> a Class B misdemeanor. On October 17, 2003, the trial court accepted Richey's plea of guilty to all three counts. The trial court sentenced Richey to a ten-year suspended sentence and placed her on probation for three years for Count I. The trial court also sentenced Richey to a one and one-half year suspended sentence and placed her on probation for one and one-half years for Count II. Under Count III, the trial court sentenced Richey to a one-year suspended sentence and placed her on probation for one year. Each sentence was to run concurrent to the others. Each sentence was also subject to the standard and special conditions of probation, including placement on community control supervision.

On May 18, 2004, the state filed a petition to revoke Richey's probation, and she admitted to the violations. Richey's probation terms were then modified to the following: three years executed in the Department of Correction and seven years suspended for Count I, one and one-half years executed in the Department of Correction for Count II, and one year

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<sup>1</sup> See IC 35-48-4-1

<sup>2</sup> See IC 35-48-4-6

executed in the Department of Correction for Count III. She was sentenced to two years of probation and was ordered to stay in a halfway house while on probation. One of the terms of her probation was that Richey continue counseling through Park Center, a mental health facility.

On January 23, 2007, the State filed a second Verified Petition for Revocation of Probation against Richey. The State alleged that Richey violated the rules and conditions of her probation by not completing counseling through Park Center as instructed by her case manager and therapist. The trial court held a revocation hearing and found that the State had shown by a preponderance of the evidence that Richey violated the terms of her probation. The trial court revoked her suspended sentence and ordered Richey to serve seven years in the Department of Correction. Richey now appeals.

### **DISCUSSION AND DECISION**

Richey asserts that the trial court erred in revoking her probation. A probation revocation proceeding is in the nature of a civil proceeding, and therefore, the alleged violation need only be proved by a preponderance of the evidence. *T.W. v. State*, 864 N.E.2d 361, 364 (Ind. Ct. App. 2007). We will consider all the evidence most favorable to the judgment without reweighing the evidence or judging the credibility of witnesses. *Cox v. State*, 706 N.E.2d 547, 551 (Ind. 1999). If there is substantial evidence to support the conclusion that a defendant has violated any terms of probation, we will affirm the trial court's decision to revoke probation. *Id.*

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<sup>3</sup> See IC 35-48-4-8.3

Richey's argument on appeal is that the evidence was insufficient to demonstrate that she failed to abide by the terms of her probation originally ordered in October, 2003 and modified in May, 2004. We disagree.

After the first modification to her probation, Richey was transferred to a halfway house to execute the remainder of her probation. She was bound to special terms and conditions in order to fulfill her probation obligations. Richey went to the Wings of Hope halfway house and successfully completed that program. Later, while still on probation, Richey had a relapse and was sent to Park Center, a mental health facility, to continue counseling. At that time, Richey was also placed in Harmony House, a halfway house. A condition of Richey's probation was that she continue counseling through Park Center.

Richey left Harmony House and new arrangements were made with Park Center for her to continue counseling as required under her probation agreement. Richey was required to report to Park Center five days a week and go to their classes. She was also required to maintain contact with her case manager and attend appointments with her probation officer while at Park Center. On February 5, 2007, Park Center sent a report on Richey to Allen County Probation citing sporadic attendance, poor progress, destructive behaviors, and a lack of therapeutic benefit. Park Center noted that Richey challenged authority figures, engaged in activities that could lead to negative consequences and submitted falsified documents. Richey was also incarcerated at this time. For all of these reasons Park Center discharged Richey from services.

Lori Gross, Richey's probation officer, presented evidence that Richey was sentenced to probation on October 17, 2003 and, after the modification on May 18, 2004, was required

to attend counseling at Park Center. At the revocation hearing, Richey admitted to the trial court that Park Center was not willing to work with her any longer, that she left Harmony House on her own accord, and that she did not complete the program at Park Center or Harmony House. “Proof of any one violation is sufficient to revoke a defendant’s probation.” *Brooks v. State*, 692 N.E.2d 951, 953 (Ind. Ct. App. 1998), *trans. denied*. The evidence was sufficient to revoke Richey’s probation.

Affirmed.

ROBB, J., and BARNES, J., concur.