

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JANUARY TERM 2009

ROGER L. DINGESS,

Appellant,

v.

Case No. 5D08-1173

STATE OF FLORIDA,

Appellee.

/

Opinion filed April 3, 2009

Appeal from the Circuit Court  
for Citrus County,  
Richard Howard, Judge.

Jerome Rotenberg, of Carney &  
Associates, P.A., Crystal River,  
for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Robin A. Compton,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

GRIFFIN, J.

Roger L. Dingess ["Dingess"] appeals the trial court's judgment and sentence that followed a violation of probation ["VOP"] hearing. On appeal, Dingess argues that the State failed to carry its burden of establishing that he willfully and substantially violated conditions three and five of the order of probation.

We conclude the trial court did not err by determining that Dingess willfully and substantially violated conditions three and five of the order of probation. There was substantial competent evidence to establish that Dingess (1) left Citrus County on May

15, 2007 in violation of condition three and (2) committed the offense of trafficking in methamphetamine in violation of condition five. It was up to the trial court to weigh the credibility of the testimony. Also, under the facts, we find no abuse of discretion in the trial court's denial of Dingess' motion for continuance to subpoena a witness.

AFFIRMED.

PALMER, C.J. and SAWAYA, J., concur.