

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ryan Eric Brown,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 19, 2022

Court of Appeals Case No.
22A-CR-1158

Appeal from the Jefferson Superior
Court

The Honorable Blaine S. Goode,
Judge

Trial Court Cause No.
39D01-1901-F6-37,
39D01-2001-F6-73,
39D01-2012-F6-1403

Mathias, Judge.

- [1] Ryan Eric Brown appeals the trial court's imposition of his previously suspended sentence after finding that Brown had repeatedly violated the

conditions of his probation. Brown raises a single issue for our review, namely, whether the trial court abused its discretion when it ordered him to serve his previously suspended sentence in the Department of Correction. We affirm.

Facts and Procedural History

- [2] In May 2021, Brown pleaded guilty to three counts of Level 6 felony possession of methamphetamine and one count of Level 6 felony possession of a syringe, each in a different case number. The trial court accepted Brown's guilty plea, dismissed various other pending charges in those four case numbers, and ordered Brown to serve an aggregate term of three years suspended to probation.
- [3] Brown promptly failed to comply with the conditions of his probation. He did not complete a substance-abuse or a mental-health evaluation. He repeatedly tested positive for methamphetamine and marijuana. He missed numerous therapy meetings to discuss his substance abuse. He repeatedly failed to call probation to see if he had to report for a drug screen. In August, he signed an administrative agreement that "put[] him on lock down for monitoring violations because he was not following any type of schedule." Tr. Vol. 2, p. 5. Brown violated that agreement too.
- [4] In September, the State filed its initial notice of probation violation against Brown. The trial court ordered that Brown be taken into custody. On November 28, officers with the Jefferson County Sheriff's Department located Brown and arrested him. At the Jefferson County jail, officers searched Brown's

person and discovered methamphetamine. The State then amended its notice of probation violation to allege that Brown had also committed a new offense of possession of methamphetamine, for which the State had filed a criminal charge in a new case number.

- [5] The trial court held a hearing on the State’s amended notice of probation violation. Following that hearing, the court stated that there was no “doubt that the State has met its burden that the defendant has violated the terms of his probation.” *Id.* at 22. In response to Brown’s argument that he needs substance-abuse treatment, the court responded:

You have had those opportunities. You have been ordered to do certain things and you haven’t done those things. So I have no real confidence that ordering you to go to long term treatment . . . will be beneficial because I don’t have any real confidence that you won’t just leave the program and we will be back here at that point. You’ve had those opportunities. You’ve chosen not to take those seriously.

Id. at 23. The court then ordered Brown to serve the remainder of his previously suspended sentence in the Department of Correction. This appeal ensued.

Discussion and Decision

- [6] Brown appeals the trial court’s order that he serve the remainder of his previously suspended sentence in the Department of Correction. It is well-established that probation is a matter of grace left to trial court discretion. [*Murdock v. State*, 10 N.E.3d 1265, 1267 \(Ind. 2014\)](#). An abuse of discretion occurs if the decision is against the logic and effect of the facts and

circumstances before the court. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007).

“Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed.” *Id.* “If this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” *Id.*

[7] Probation revocation is a two-step process. First, the trial court must make a factual determination that the defendant violated a condition of probation. *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008). The 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). Second, if a violation is found, then the trial court must determine the appropriate sanctions for the violation. *Woods*, 892 N.E.2d at 640. When a defendant violates a condition of his probation, the trial court may “[o]rder execution of all or part of the sentence that was suspended at the time of initial sentencing.” *Ind. Code § 35-38-2-3(h)(3) (2021)*.

[8] Brown argues that the trial court abused its discretion when it sentenced him to serve the balance of his previously suspended three-year sentence in the Department of Correction. Brown asserts that the trial court should have sentenced him to placement in a treatment facility or purposeful incarceration because he has a substance-abuse problem.

[9] The trial court ordered Brown to complete substance-abuse treatment as a condition of his probation. He failed to do so. And our court has observed that

the Department of Correction “offers multiple programs, including drug and alcohol classes, designed to rehabilitate inmates.” See *Butler v. State*, 951 N.E.2d 255, 262 (Ind. Ct. App. 2011).

[10] Instead of seeking treatment while on probation, Brown continued to use illicit substances in violation of the conditions of his probation, which has also resulted in a new criminal charge against him. Further, Brown repeatedly failed to contact his probation officer about random drug screens, and when he was placed into an administrative agreement, he failed to comply with those terms as well. Thus, Brown did not take advantage of the chances he was given to rehabilitate himself, and we cannot say that the trial court abused its discretion when it concluded that probation or similar release was not appropriate for Brown.

[11] For all of these reasons, we conclude that the trial court acted within its discretion when it revoked Brown’s probation and ordered him to serve the balance of his previously suspended sentence in the Department of Correction.

[12] Affirmed.

May, J., and Robb, J., concur.