

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jeremy L. Richardson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 14, 2022

Court of Appeals Case No.
22A-CR-6

Appeal from the Tippecanoe
Circuit Court

The Honorable Sean M. Persin,
Judge

Trial Court Cause No.
79C01-1405-FB-6

Brown, Judge.

[1] Jeremy L. Richardson appeals the trial court’s order revoking his community corrections placement. We affirm.

Facts and Procedural History

[2] On May 8, 2014, the State charged Richardson with Count I, possession of methamphetamine as a class B felony, and Count II, possession of two or more chemical reagents or precursors with the intent to manufacture methamphetamine as a class C felony. Richardson and the State entered into a plea agreement pursuant to which Richardson agreed to plead guilty to Count I and the State agreed to dismiss Count II. The agreement provided the initial executed portion of Richardson’s sentence would be no less than eight years and no more than eleven years.

[3] The court accepted the plea agreement and sentenced Richardson to fifteen years with eight years executed at the Department of Correction (“DOC”), followed by three years at the Tippecanoe County Community Corrections, with four years suspended to probation.

[4] On July 10, 2019, the State filed a Petition to Execute Community Corrections Sentence in Custody alleging that Richardson violated the Tippecanoe County Community Corrections for “Class ‘B’ #202: Possession or Use of Controlled Substance or Alcohol.” Appellant’s Appendix Volume II at 39. The court found that Richardson admitted the allegations and revoked 106 days of his sentence. The court ordered that Richardson “may serve the remainder of his executed sentence on community corrections as a DIRECT PLACEMENT”

and that he “meet with Norman Henry for substance abuse evaluation and to schedule a mental health evaluation as a term of the community corrections sentence.” *Id.* at 55.

[5] On October 9, 2019, the State filed another Petition to Execute Community Corrections Sentence in Custody and alleged that Richardson violated the conditions of his placement in community corrections on September 20 and October 4, 2019. On December 6, 2019, the court found that Richardson violated the conditions of his community corrections placement, revoked one year of his executed sentence, ordered him to serve one year in the DOC, and ordered the “[r]emainder of [his] executed time to be served at Tippecanoe County Community Corrections with initial placement in work release.” *Id.* at 95.

[6] On March 6, 2020, the court entered an Order Modifying Sentence which asserted that, due to an error at the Tippecanoe County Jail, Richardson was released from custody and placed in Tippecanoe County Community Corrections instead of being transported to the DOC to serve the balance of one year. The court observed that Richardson had engaged in appropriate substance abuse services since that time. Over the State’s objection, the court modified the December 6, 2019 order and revoked only 126 days. It ordered that Richardson serve his remaining executed sentence in Tippecanoe County Community Corrections.

[7] On May 29, 2020, the State filed another Petition to Execute Community Corrections Sentence in Custody alleging that Richardson violated community corrections on May 28, 2020, for “Class ‘A’ #113: Trafficking” and also had previous violations on May 22, February 7, and February 8, 2020. *Id.* at 101. On July 6, 2020, the court entered an order finding that Richardson violated his community corrections placement “as charged.” *Id.* at 117. The court stated the parties and the court agreed that Richardson would have completed his executed sentence as of July 7, 2020, and ordered Richardson to be released from custody on July 7, 2020, and report to the probation department immediately. The court also ordered Richardson to report to Meridian Health within forty-eight hours of his release from custody and to comply with all recommendations of Meridian Health as a term of his probation.

[8] On August 21, 2020, the State filed a Petition to Revoke Probation alleging that Richardson violated the terms of his probation by failing to report to the Tippecanoe County Probation Department in person on August 3 and 13, 2020. It also alleged that he failed to update probation with a change of address and that his whereabouts were unknown. On November 4, 2020, the State filed another Petition to Revoke Probation and alleged that Richardson failed to maintain good and lawful behavior and was alleged to have committed the offense of unlawful possession of a syringe as a level 6 felony.

[9] On July 2, 2021, the court found that Richardson violated the terms and conditions of probation as charged and revoked all four years of his probation. The court ordered, over the State’s objection, that Richardson may execute the

four years on community corrections. It ordered him to complete the program at Trinity Life Mission as a term of his placement in community corrections.

[10] On August 25, 2021, the State filed a Petition to Execute Community Corrections Sentence in Custody alleging that Richardson left the Trinity Life Mission on August 6, 2021, did not return, and did not serve any of his community corrections sentence. On December 17, 2021, the court held a hearing. Richardson admitted the violation, and the court found a sufficient factual basis. Upon questioning by his counsel, Richardson indicated that he wore orange because he was trusted as an inmate to “carry out day to day operations of feeding the jail and the cleaning the [sic] jail.” Transcript Volume II at 10. He asserted he did not have any “write ups.” *Id.* at 11. When asked what he thought would be in his best interests related to a sanction, he answered:

I am at the mercy of the court. I can't make ex[c]uses for what has happened. I tried to tell Trinity to [sic] that my dad was dying, he was in hospice care. He actually died 7 days after I left Trinity, I went and spent the last 7 days of his life with him. I regretted leaving Trinity within an hour and I knew it was a terrible decision. I absolutely loved that place and I tried to go back and they would now [sic] allow me to go back. As far as what the court should do I mean I would like to be able to get some treatment. If I get sent down the road to RDC I mean I probably won't leave for 2 to 3 months from now I mean I'm tied to the other courtroom until January 24 for a misdemeanor charge that I (inaudible) to the county so I probably won't get there until I'd say April, mid-April. By the time I get there I'll sit in RDC for a month I won't get no treatment, I asked for community corrections but I really don't have [a] foot to stand on

with that your honor but that would be what I would ask that way I can get some form of treatment because I – I can't do this on my own. I know that. That's obvious. Everybody in my like [sic] knows that. I mean so that's all I got but I would not – I kind of understand if the court sent me back to prison.

Id. at 11-12.

[11] After argument by Richardson's counsel, the court stated:

I don't think you were here for the last hearing with Mr. Cole I don't even know if you know him but he very much had a similar situation. You were both set to (inaudible) and both wanted to go [to] Trinity, you both were already on your last opportunity to do what you needed to do. And Trinity was like that last chance to hey if you're serious about it then do it and if you walk off (inaudible). It's hard because you're both trustees, you both have potential through the roof, you both get into recovery and stay consistent with recovery you could really (inaudible). Even the jail recognizes that, I do recognize that. But I do think there need[s] to be recuperations [sic] for your actions and the court is going to revoke the balance of your sentence.

Id. at 14-15.

[12] That same day, the court entered an order finding that Richardson violated his community corrections placement and observing that he had multiple prior violations of community corrections and probation. The court revoked Richardson's "remaining community corrections sentence of 1,460 days and order[ed] him to serve this time in the" DOC. Appellant's Appendix Volume II at 129. The court observed that it was unclear whether Richardson would serve his remaining time in prison or in jail "due to the length of time remaining" and

stated that, if he serves his time in prison, it recommended that he participate in Recovery While Incarcerated and/or Purposeful Incarceration and that it would consider a modification to the sentence upon successful completion of a clinically appropriate substance abuse treatment program as determined by the DOC. *Id.* at 130.

Discussion

- [13] Richardson acknowledges that he struggled to comport his behavior in compliance with the rules of community corrections and probation but argues that his present violation was unrelated to substance abuse. He asserts that he accepted responsibility for the violation and is making steps toward rehabilitation.
- [14] For purposes of appellate review, we treat a hearing on a petition to revoke a placement in a community corrections program the same as we do a hearing on a petition to revoke probation. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999), *reh'g denied*. Both probation and community corrections programs serve as alternatives to commitment to the DOC and both are at the sole discretion of the trial court. *Id.* Placement on probation or in a community corrections program is a matter of grace and not a right. *Id.*; see *State v. Vanderkolk*, 32 N.E.3d 775, 777 (Ind. 2015) (“The similarities between the two programs have led to common treatment in appellate review of a trial court’s decision to revoke either . . .”). Our standard of review of an appeal from the revocation of a community corrections placement mirrors that for revocation of probation. *Cox*, 706 N.E.2d at 551. The State need only prove the alleged violations by a

preponderance of the evidence, we will consider all the evidence most favorable to supporting the judgment of the trial court without reweighing that evidence or judging the credibility of witnesses, and if there is substantial evidence of probative value to support the court's conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation. *Id.*

[15] The Indiana Supreme Court has held that a trial court's sentencing decisions for probation violations are reviewable using the abuse of discretion standard. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). The Court explained that, "[o]nce a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed" and that, "[i]f 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.* An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. *Id.*

[16] The record reveals that the trial court ordered Richardson to complete a program at Trinity Life Mission as a term of his community corrections sentence following multiple violations of community corrections and probation. Richardson left the facility of Trinity Life Mission on August 6, 2021, and did not return. The State filed a petition to revoke his placement nineteen days later on August 25, 2021. The trial court observed that Richardson had multiple prior violations of community corrections and probation and that Trinity Life Mission was his "last opportunity to do what [he] needed to do."

Transcript Volume II at 14-15. We cannot say that the trial court abused its discretion in revoking Richardson's placement.

[17] For the foregoing reasons, we affirm the trial court's order.

[18] Affirmed.

Mathias, J., and Molter, J., concur.