

## MEMORANDUM DECISION

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IN THE  
**Court of Appeals of Indiana**

Christine Lynn Guzman,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff,*



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February 2, 2024

Court of Appeals Case No.  
23A-CR-2048

Appeal from the Hendricks Superior Court

The Honorable Mark A. Smith, Judge

Trial Court Cause No.  
32D04-2005-F6-358

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**Memorandum Decision by Judge Bailey**  
Judges Crone and Pyle concur.

**Bailey, Judge.**

## Case Summary

- [1] Christine Guzman challenges the trial court’s revocation of her community corrections placement. The sole issue she raises is whether the trial court abused its discretion in ordering that revocation. We affirm.

## Facts and Procedural History

- [2] In August 2020, Guzman pleaded guilty, pursuant to a plea agreement, to resisting law enforcement, as a Level 6 felony;<sup>1</sup> possession of methamphetamine, as a Level 6 felony;<sup>2</sup> operating a vehicle while intoxicated, as a Class A misdemeanor;<sup>3</sup> and being a habitual offender.<sup>4</sup> Guzman’s plea agreement set the terms of her sentence, and, per the agreement, the remaining charges were dismissed. She initially received a sentence of 1,700 days that included probation and that was entirely stayed “pending successful completion of drug court.” App. at 83. While Guzman was in drug court, the probation department filed eleven notices of violations, including submitting diluted urine samples, failing to call the drug line, failing to submit to drug tests, being

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<sup>1</sup> Ind. Code § 35-44.1-3-1(a)(3) & (c)(1)(A).

<sup>2</sup> I.C. § 35-48-4-6.1(a).

<sup>3</sup> I.C. § 9-30-5-2(a) & (b).

<sup>4</sup> I.C. § 35-50-2-8(d).

dishonest with the court, having a positive drug screen, having a consistently poor attitude, engaging in improper social media activity, and committing two violations of a no contact order. The court repeatedly found Guzman in violation of her probation and her drug court agreement. The court terminated Guzman's assignment to drug court and her placement on probation on June 1, 2022, and ordered her to serve 1460 days of her sentence in work release.

[3] On May 22, 2023, the Hendricks County work release program filed a "Petition and Notice of Work Release Violation" stating that Guzman had failed to follow the conditions of her work release placement by "failing to adjust" and "being under the influence." App. at 186. The petition asked the trial court to revoke Guzman's placement in the work release program. On that same date, the work release program filed another notice with the trial court, stating that Guzman "possessed or consumed illegal drugs without a prescription," "possessed or attempted to possess contraband," "disobeyed or refused to comply with an order from work release staff," and was "failing to adjust." *Id.* at 188. This second notice also asked that Guzman "be immediately removed from the facility." *Id.*

[4] At an evidentiary hearing on the request to revoke Guzman's placement on work release, the State presented testimony from Bridgette Collins, the director of the county's work release program. Collins testified that, in November 2022, Guzman had violated the program rules by failing to provide a urine sample, testing positive for marijuana, and having contraband in a secure area by bringing a vaping device into the secure part of the facility. On May 20, 2023,

Guzman appeared to be under the influence of a mood-altering substance and was behaving erratically, had dilated pupils, was stumbling, and had slurred speech—all of which “create[d] a security threat for herself and the rest of the residents.” *Id.* at 32. Program staff could not keep Guzman focused, and she was removing her clothing. Guzman told staff that she had consumed “a CBD gummy and took something from a pipe from a girl at work.” *Id.* The work-release program was not willing to have Guzman return to the facility because they did not have medical staff that could deal with her “erratic behavior.” *Id.* at 34.

[5] Guzman testified on her own behalf. She stated she has been diagnosed as “[b]ipolar, schizoaffective, and ADHD.” *Id.* at 40. Guzman testified that the May 20 incident was a diabetic attack and that she was not taking her anti-psychotic medication at the time. She also said that she “[didn’t] know” if she had consumed a CBD gummy that day, she did not smoke a pipe, and she believed the incident was a symptom of her mental illnesses. *Id.* at 43. Guzman asked to be returned to work release.

[6] The trial court found that Guzman had violated her probation and work release placement by consuming a CBD gummy, being under the influence, and failing to submit to drug tests. The court noted that, at the time of the May incident, Guzman either had been voluntarily under the influence of a substance or her behavior occurred because she had failed to take medication that “she knew she should have took [sic].” *Id.* at 50. The court ordered Guzman to serve the remaining 1384 days of her sentence in either the county jail or the Department

of Correction (“DOC”), with 836 days of credit time—i.e., “about 548 days to go.” *Id.* at 52. This appeal ensued.

## Discussion and Decision

[7] Guzman appeals the trial court’s revocation of her probation and placement in community corrections/work release. “Placement under either probation or a community corrections program<sup>[5]</sup> is ‘a matter of grace and a conditional liberty that is a favor, not a right.’” *State v. Vanderkolk*, 32 N.E.3d 775, 777 (Ind. 2015) (quoting *Cox v. State*, 706 N.E.2d 547, 549 (Ind.1999)). We review probation violation determinations and sanctions for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances, or when the trial court misinterprets the law.” *Id.* (citations omitted). “As with other sufficiency issues, we do not reweigh the evidence or judge the credibility of witnesses.” *Jenkins v. State*, 956 N.E.2d 146, 148 (Ind. Ct. App. 2011) (citation and quotation omitted), *trans. denied*.

[8] A defendant’s placement in community corrections may be revoked, and the defendant may be committed to the DOC for the remainder of her sentence, if

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<sup>5</sup> “Both probation and community corrections programs[, including work release,] serve as alternatives to commitment to the Department of Correction and both are made at the sole discretion of the trial court.” *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999); *see also* I.C. § 35-38-2.6-2(a); I.C. § 35-38-2.6-3. Thus, for purposes of today’s analysis, “‘probation’ is not distinguishable from ‘community corrections’ [and ‘work release’], and the terms will be used interchangeably.” *State v. Vanderkolk*, 32 N.E.3d 775, 777 (Ind. 2015).

the defendant “violates the terms of the placement” in community corrections. I.C. § 35-38-2.6-5; *see also Pavey v. State*, 710 N.E.2d 219, 221 (Ind. Ct. App. 1999) (“[W]e will affirm the revocation of placement in a community corrections program if, considering only the probative evidence and reasonable inferences therefrom, there is sufficient evidence supporting the conclusion that the individual within the program is guilty of violating any condition of the program.”).

[9] A probation and/or community corrections placement revocation proceeding is a two-step process. *Heaton*, 984 N.E.2d at 616. First, the trial court must determine whether the preponderance of the evidence showed that a probation violation occurred. *Id.*; I.C. § 35-38-2-3. Second, the trial court must determine whether the probation violation warrants revocation of probation or some lesser sanction. *Heaton*, 984 N.E.2d at 616.

[10] Guzman does not dispute that her actions violated the terms of her probation and/or placement in work release. Rather, she asserts that the trial court abused its discretion on the second step of the analysis when it revoked her placement in work release and ordered her to serve the remainder of her sentence in jail or the DOC. The crux of her argument is that her violations of program rules on May 20, 2023, were caused by her “diabetic attack” and her failure to take her mental health medications. Appellant’s Br. at 9. Given these alleged mitigators, Guzman asserts that the trial court should not have revoked her community corrections placement because of the May 2023 rules violations.

[11] Indiana Code Section 35-38-2-3(h)<sup>6</sup> provides:

If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may impose one (1) or more of the following sanctions:

(1) Continue the person on probation, with or without modifying or enlarging the conditions.

(2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Our Supreme Court has held that this statute “permits judges to sentence offenders using any one of or any combination of the enumerated powers.” *Prewitt*, 878 N.E.2d at 187. And, while probationers must be given the opportunity to present mitigating factors, *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008), the trial court is not required to consider aggravating and mitigating factors when deciding whether to revoke probation, *Porter v. State*, 117 N.E.3d 673, 675 (Ind. Ct. App. 2018). Moreover, a single violation of a condition of probation is sufficient to permit the trial court to revoke probation. *Pierce v. State*, 44 N.E.3d 752, 755 (Ind. Ct. App. 2015).

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<sup>6</sup> See also I.C. § 35-38-2.6-5 (regarding revocation of placement in community corrections).

[12] Here, Guzman was given an opportunity to present mitigating factors, and she did so when she testified that her actions were caused by a diabetic attack and her failure to take her mental health medications. However, as the trial court noted, there was no evidence to support Guzman's assertions other than her own testimony. And the trial court was not required to believe that testimony. Guzman's assertions on appeal are simply requests that we reweigh the evidence and judge witness credibility, which we cannot do. *Jenkins*, 956 N.E.2d at 148. Given that a court may revoke probation for a single probation violation and that Guzman had multiple violations, the trial court was well within its discretion when it sanctioned her by ordering her to serve the remainder of her suspended sentence in the DOC. *Pierce*, 44 N.E.3d at 755.

## Conclusion

[13] The trial court did not abuse its discretion when it revoked Guzman's probation and placement in community corrections as a sanction for her probation and/or work release violations.

[14] Affirmed.

Crone, J., and Pyle, J., concur.



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