

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Isaac Gates,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

May 3, 2023

Court of Appeals Case No.
22A-CR-2245

Appeal from the Jefferson Superior
Court

The Honorable Richard G.
Striegel, Senior Judge

Trial Court Cause No.
39D01-1903-F6-304

Memorandum Decision by Judge Crone
Judges Robb and Kenworthy concur.

Crone, Judge.

Case Summary

- [1] Isaac Gates appeals the sanction imposed by the trial court upon revocation of his probation. He contends that the trial court abused its discretion by ordering him to serve the entirety of his suspended sentence. Finding no abuse of discretion, we affirm

Facts and Procedural History

- [2] In March 2019, the State charged Gates with level 6 felony possession of methamphetamine, level 6 felony possession of a legend drug without a prescription, class B misdemeanor possession of marijuana, and class C misdemeanor possession of paraphernalia. In March 2021, Gates and the State entered into a plea agreement in this case and three other causes. In this case, Gates agreed to plead guilty to level 6 felony possession of methamphetamine, and the State agreed to dismiss the remaining charges.¹ In addition, the parties agreed to a sentence of 910 days in the Department of Correction, with 752 days suspended to probation to be supervised by community corrections. The trial court accepted the plea agreement and sentenced Gates accordingly. The terms of probation required Gates to submit to a substance abuse or mental health evaluation and comply with any treatment recommendations and to not use alcohol or illegal drugs.

¹ As for the other causes, Gates agreed to plead guilty to level 6 felony possession of methamphetamine and admit to a probation violation, and the State agreed to dismiss the remaining charges.

- [3] In March 2022, the State filed a petition to revoke Gates’s community corrections placement, alleging that he violated the terms of his probation by not engaging in a substance abuse or mental health evaluation; testing positive for methamphetamine, amphetamine and marijuana in March, May, July, and December 2021 and in January 2022, and for marijuana in September and November 2021; and failing to report for scheduled appointments with community corrections in December 2021 and February and March 2022.
- [4] In July 2022, the trial court held a probation revocation hearing. Gates admitted to the violations but testified that he had contacted a treatment provider and had been unable to attend the appointment. He testified that he did not have transportation and that his case manager knew that he had transportation issues. Gates also stated that his mother had passed away and that he had moved to family-owned property out in the country. He said that he was a victim of domestic violence and that it had “just been a hard time” for him. Tr. Vol. 2 at 13.
- [5] The trial court found Gates’s use of methamphetamine and amphetamine “very disconcerting,” revoked his probation, and ordered him to serve the entirety of his suspended sentence. *Id.* at 17. The trial court ordered Gates to report to jail the following Monday, but he failed to report. The trial court issued a warrant for his arrest, which was served three days later. This appeal ensued.

Discussion and Decision

[6] Initially, we observe that Gates improperly argues that his sentence is inappropriate pursuant to Indiana Appellate Rule 7(B). Appellant's Br. at 7-8. However, we do not apply Appellate Rule 7(B) to sanctions imposed for probation violations. *Jones v. State*, 885 N.E.2d 1286, 1290 (Ind. 2008). We review a trial court's decision regarding sanctions following the revocation of probation for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). An abuse of discretion occurs "only where the trial court's decision is clearly against the logic and effect of the facts and circumstances" before the court. *Robinson v. State*, 91 N.E.3d 574, 577 (Ind. 2018). Probation is a matter of grace left to trial court discretion. *Murdock v. State*, 10 N.E.3d 1265, 1267 (Ind. 2014). Upon finding that a defendant has violated 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). So long as the trial court follows the procedures outlined in Indiana Code Section 35-38-2-3, the court may properly order execution of a suspended sentence upon a finding of a single violation by a preponderance of the evidence. *Killebrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021), *trans. denied*. Here, Gates admitted to multiple violations.

[7] In essence, Gates's argument is that his violations stem from his addiction to drugs, incarceration does not address his addiction, and he was unable to attend the substance abuse evaluation and his community corrections appointments

because he had no transportation. He argues that he would benefit from a court-ordered drug treatment program.

[8] We acknowledge the extreme difficulty in overcoming drug addiction, but Gates has already been offered court-ordered drug treatment, and this attempt to provide him with services has been unsuccessful. He did not attend the substance abuse evaluation or even attempt to reschedule it. Even if transportation issues have been a challenge as to keeping appointments, his consistent substance abuse, as shown by the seven failed drug screens, indicates that he is not a good candidate for continued probation. We also note that he failed to report to jail after his probation was revoked and that he violated the conditions of his pretrial release by committing the crime of possession of methamphetamine and missing appointments with pretrial services. Under these circumstances, we cannot say that the trial court abused its discretion by ordering Gates to serve the entirety of his suspended sentence. Therefore, we affirm.

[9] Affirmed.

Robb, J., and Kenworthy, J., concur.