

# MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## ATTORNEY FOR APPELLANT

Cara Schaefer Wieneke  
Wieneke Law Office, LLC  
Brooklyn, Indiana

## ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Robert M. Yoke  
Deputy Attorney General

Alexa R. Rojas  
Certified Legal Intern  
Indianapolis, Indiana

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# IN THE COURT OF APPEALS OF INDIANA

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Dacota J. Hughes,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

October 31, 2022

Court of Appeals Case No.  
22A-CR-1440

Appeal from the Vigo Superior  
Court

The Honorable Sarah K. Mullican,  
Judge

Trial Court Cause Nos.  
84D03-1903-F5-864  
84D03-2008-F6-2841

**Tavitas, Judge.**

## Case Summary

- [1] The trial court found Dakota Hughes violated the conditions of his work release placement. As a sanction for Hughes' work release violations, the trial court placed Hughes in the Department of Correction ("DOC") for his work release term and also imposed Hughes' previously-suspended two-year sentence. Hughes does not appeal the trial court's revocation of his work release placement or his placement in the DOC; rather, Hughes appeals only the trial court's order imposing Hughes' previously-suspended sentence. Finding no error, we affirm.

## Issue

- [2] Hughes raises one issue on appeal, which we restate as whether the trial court abused its discretion in imposing Hughes' previously-suspended two-year sentence.

## Facts

- [3] On July 24, 2020, Hughes executed a plea agreement to one count of auto theft, a Level 5 felony, in Cause No. 84D03-1903-F5-864 ("Cause No. F5-864"), in which the State agreed to recommend that Hughes serve his sentence as a placement on home detention. The trial court took Hughes' guilty plea under advisement pending a sentencing hearing.
- [4] On July 29, 2020, the trial court granted Hughes' request to begin his placement on home detention before the trial court held the sentencing hearing on Cause No. F5-864. On August 24, 2020, still before the trial court held a sentencing

hearing, the State filed a petition to revoke Hughes' pre-trial placement in home detention and alleged Hughes "cut off his GPS transmitter" and "failed to report to Vigo County Community Corrections[,] leaving his whereabouts unknown." Appellant's App. Vol. II p. 113. The State subsequently charged Hughes with escape, a Level 6 felony, in Cause No. 84D03-2008-F6-2841 ("Cause No. F6-2841").

[5] On April 1, 2021, Hughes executed a second plea agreement wherein he pleaded guilty to one count of auto theft, as alleged in Cause No. F5-864, and one count of escape, as alleged in Cause No. F6-2841. The trial court held a sentencing hearing on June 3, 2021 and entered judgments of conviction on both counts. The trial court sentenced Hughes to a consecutive sentence of: (1) six years on Cause No. F5-864, with four years executed on work release and two years suspended to probation; and (2) two years on Cause No. F6-2841, all suspended.<sup>1</sup>

[6] On August 11, 2021, the State filed a petition to revoke Hughes' work release placement and probation ("State's Petition to Revoke"). The State alleged: (1) on July 1, 2021, Hughes was in a "delirious" state and "attempted to 'fight' another defendant"; (2) on July 17, 2021, Hughes failed to timely return to the community corrections facility ("the facility"); (3) on August 2, 2021, Hughes

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<sup>1</sup> Hughes appears to appeal Cause No. F6-2841, as that case is listed on his notice of appeal, however, Hughes makes no argument regarding Cause No. F6-2841. See Appellant's Br. p. 1. Accordingly, we only review Hughes' sentence in Cause No. F5-864.

visited two unapproved locations and failed to timely return to the facility; (4) on August 4, 2021, Hughes visited “several” unapproved locations and failed to timely return to the facility; (5) on August 6, 2021, Hughes refused to take a drug screen; and (6) Hughes “refused to take his medication as prescribed,” as required by his participation in the work release program. Appellant’s App. Vol. II p. 150-51.

[7] At the revocation hearing on May 23, 2022, Hughes admitted the allegations set forth in the State’s Petition to Revoke, and the trial court found Hughes violated the conditions of his work release placement. The trial court “revoke[d] [Hughes’] direct commitment to work release and order[ed] that the six (6) years of [Hughes’] previously suspended sentence . . . shall be executed at the [DOC].”<sup>2</sup> Appellant’s App. Vol. II p. 165. Hughes now appeals.

## **Discussion and Decision**

[8] Hughes does not challenge the trial court’s revocation of his work release placement or his placement in the DOC, but instead argues that the trial court abused its discretion in imposing his previously-suspended two-year sentence in Cause No. F5-864. We disagree.

[9] ““Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.”” *Heaton v. State*, 984 N.E.2d 614, 616 (Ind.

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<sup>2</sup> The trial court did not modify Hughes’ sentence in Cause No. F6-2841.

2013) (quoting *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). “It is within the discretion of the trial court to determine probation conditions and to revoke probation if the conditions are violated.” *Id.* “In appeals from trial court probation violation determinations and sanctions, we review for abuse of discretion.” *Id.* “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances,” *id.*, “or when the trial court misinterprets the law.” *Id.* (citing *State v. Cozart*, 897 N.E.2d 478, 483 (Ind. 2008)). “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 the witnesses.” *Holmes v. State*, 923 N.E.2d 479, 483 (Ind. Ct. App. 2010) (quoting *Monroe v. State*, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009)).

[10] “Probation revocation is a two-step process. First, the trial court must make a factual determination that a violation of a condition of probation actually occurred.” *Heaton*, 984 N.E.2d at 616 (citing *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008)). “Second, if a violation is found, then the trial court must determine the appropriate sanctions for the violation.” *Id.*

[11] Here, the trial court found Hughes violated the conditions of his work release placement and, as a sanction, imposed his previously-suspended two-year sentence. We cannot say that the trial court abused its discretion.

[12] “Proof of a single violation is sufficient to permit a trial court to revoke probation.” *Killibrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021) (citing *Beeler v. State*, 959 N.E.2d 828, 830 (Ind. Ct. App. 2021), *trans. denied*), *trans.*

*denied*. In the instant case, Hughes violated the conditions of his work release placement in multiple ways and on multiple occasions, all within months of his placement. *See Utley v. State*, 167 N.E.3d 777, 784 (Ind. Ct. App. 2021) (finding trial court did not abuse its discretion when defendant’s probation violations “occurred within two months of [defendant’s] placement on probation”), *trans. denied*. Specifically, Hughes fought with another defendant, visited several unauthorized locations, failed to timely return to the facility on several occasions, refused to take a drug screen, and refused to participate in a mandatory program. Hughes also has an extensive criminal history, which includes numerous probation and community corrections placement violations. *See id.* (considering defendant’s “extensive criminal history”).

[13] Hughes argues that the trial court’s order imposing his previously-suspended two-year sentence “was an abuse of discretion in light of the mitigating evidence Hughes presented.” Appellant’s Br. p. 10. Hughes argues that he “[took] the initiative to better himself by enrolling in and completing moral reconnection therapy” and that he has “a particular motivation to do well in prison this time because his children [are] in foster care, and Hughes [wants] them returned home.” *Id.* at 9-10. “However, in determining the appropriate sentence upon finding a probation violation, trial courts are not required to balance aggravating and mitigating circumstances.” *Killibrew*, 165 N.E.3d at 582 (citing *Treece v. State*, 10 N.E.3d 52, 59 (Ind. Ct. App. 2014), *trans. denied*). Accordingly, we find no error.

## Conclusion

[14] The trial court did not abuse its discretion in imposing Hughes' previously-suspended two-year sentence. Accordingly, we affirm.

[15] Affirmed.

Brown, J., and Altice, J., concur.