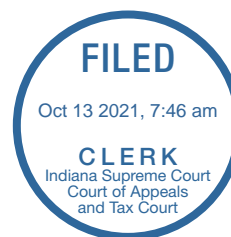


MEMORANDUM DECISION

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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IN THE COURT OF APPEALS OF INDIANA

Roncia Latoy Fletcher,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 13, 2021

Court of Appeals Case No.
21A-CR-436

Appeal from the Lake Superior
Court

The Honorable Natalie Bokota,
Judge

Trial Court Cause No.
45G02-1211-FA-28

Bradford, Chief Judge.

Case Summary

- [1] Roncia Latoy Fletcher broke into Anthony Gill’s house and committed Class C felony battery resulting in serious bodily injury. The trial court sentenced Fletcher to four years suspended to probation. Fletcher subsequently violated the terms of her probation by failing numerous drug tests. Consequently, the trial court committed Fletcher to a community corrections program. Fletcher violated program rules by testing positive for drugs and alcohol. Community corrections subsequently deprived her of ninety days of credit time. The trial court approved the deprivation and granted the State’s petition to expel Fletcher from community corrections. On appeal, Fletcher argues that community corrections personnel did not have the authority to deprive program participants of credit time. Because the Indiana Administrative Code grants community corrections personnel such power, we affirm.

Facts and Procedural History

- [2] On February 1, 2017, Fletcher pled guilty to Class C felony battery resulting in serious bodily injury following events occurring in 2012, when she and two others entered Gill’s home. The trial court sentenced Fletcher to four years of incarceration, all of which it suspended to probation. Fletcher subsequently violated the rules and conditions of her probation by testing positive for marijuana and cocaine, failing to pay probation fees, and failing to maintain employment. Consequently, the trial court ordered Fletcher’s four-year sentence to be served in Lake County Community Corrections (“LCCC”).

- [3] Fletcher struggled to follow the conditions of her LCCC placement. Specifically, in January of 2020, Fletcher tested positive for THC and alcohol. In July of 2020, she tested positive for cocaine. Again, in October and November of 2020, Fletcher tested positive for cocaine. For these violations, LCCC staff conducted hearings reported on February 13, 2020 and July 13, 2020. At the July hearing, LCCC staff noted that, as part of her placement, Fletcher had signed a “CAB form” on July 10, 2020, acknowledging that “she would lose 90 days if she tested positive for any illegal drugs.” App. Vol. II p. 124. Fletcher had also failed to pay almost \$4000.00 in fees. In light of Fletcher’s violations, coupled with her acknowledgment that she would lose credit time if she tested positive for illegal drugs, the LCCC conduct adjustment board sanctioned Fletcher by stripping her of ninety days of credit time on November 12, 2020.
- [4] On November 13, 2020, the State petitioned to expel Fletcher from her LCCC placement. Following an evidentiary hearing, the trial court determined that the State had proved that Fletcher had violated the terms of her placement and ordered that she serve her previously-suspended sentence in the Department of Correction (“DOC”).

Discussion and Decision

- [5] Fletcher appeals the trial court’s decision to honor LCCC’s deprivation of ninety days of her credit time. Whether Fletcher is entitled to those ninety days of credit time is a question of statutory interpretation that is reviewed *de novo*.

Shepard v. State, 84 N.E.3d 1171, 1172 (Ind. 2017). Fletcher argues that the trial court should have restored her ninety days because the LCCC lacked authority to deprive her of credit time.¹

[6] In making her argument, Fletcher explains that any deprivation of credit time must comply with the “rules adopted by the department of correction under IC 4-22-2.” Ind. Code § 35-38-2.6-6(d). Further, Fletcher points out that the statute that outlines the powers of a community corrections director when an offender violates the terms of his placement fails to include deprivation of credit time. Ind. Code § 35-38-2.6-5. To support her argument, Fletcher relies on *Shepard*. In *Shepard*, our Supreme Court interpreted these statutes

as giving the D.O.C. discretion to promulgate rules related to the deprivation of earned credit time, including the delegation of such authority to other entities. However, in the absence of such delegation, only the D.O.C. is empowered to deprive an offender directly placed into a community corrections program of earned credit time.

84 N.E.3d at 1174. Thus, Fletcher argues, community corrections personnel lacked the authority to deprive her of credit time. However, Fletcher’s reliance on *Shepard* is misplaced.

¹ Fletcher argues in her reply brief—for the first time—that the LCCC failed to follow the statutory prerequisites for credit time deprivation in Indiana Code section 35-50-6-4(f), and, therefore, she should not have been deprived of ninety days of credit time. Because she raises this argument for the first time in her reply brief, it is waived. See *Kirchgessner v. Kirchgessner*, 103 N.E.3d 676, 682 (Ind. Ct. App. 2018) (stating that an argument raised for the first time in a reply brief is waived).

[7] After the Supreme Court decided *Shepard*, the DOC adopted a rule stating that a “person who is placed in a community corrections program may be deprived of earned credit time by the director of a community corrections program, or designee, under [IC 35-38-2.6-6\(d\)](#) for any violation of one (1) or more rules or conditions of the community corrections program.” [210 Ind. Admin. Code 2-2-1](#). Put simply, community corrections programs now have the authority to sanction an offender by depriving her of credit time.

[8] Pursuant to this authority, the LCCC properly sanctioned Fletcher for violating the program’s rules. Indeed, between January and November of 2020, Fletcher failed five drug screens and tested positive for alcohol, cocaine, and THC. Additionally, Fletcher signed a “CAB form ... saying that she would lose 90 days if she tested positive for illegal drugs.” App. Vol. II p. 124. Moreover, during a community corrections program hearing in July of 2020, Fletcher admitted that she had used cocaine in violation of program rules. Consequently, the LCCC program properly revoked ninety days of Fletcher’s credit time under [210 Indiana Administrative Code section 2-2-1](#). The trial court acted within its authority to honor the deprivation.

[9] The judgment of the trial court is affirmed.

Robb, J., and Altice, J., concur.