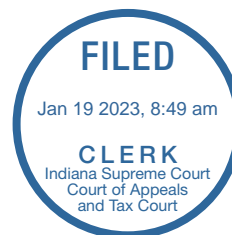


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as binding precedent, but it may be cited for persuasive value or to establish res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Robert Mata,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff.*

January 19, 2023

Court of Appeals Case No.  
22A-CR-1489

Appeal from the Adams Superior  
Court

The Honorable Samuel K. Conrad,  
Judge

Trial Court Cause No.  
01D01-1809-F6-178

**Pyle, Judge.**

## Statement of the Case

- [1] Robert Mata (“Mata”) appeals the revocation of his probation, arguing that the trial court abused its discretion when it ordered him to serve 640 days of his previously suspended sentence. Concluding that the trial court did not abuse its discretion, we affirm the trial court’s judgment.
- [2] We affirm.

## Issue

Whether the trial court abused its discretion when it ordered Mata to serve 640 days of his previously suspended sentence after he violated the terms and conditions of his probation.

## Facts

- [3] In January 2019, Mata pleaded guilty to Level 6 felony operating a vehicle while being an habitual traffic violator (“an HTV”). The trial court sentenced Mata to home detention to be followed by probation. One of the terms of Mata’s probation was to not commit any criminal offenses.
- [4] In July 2021, the State filed a petition alleging that Mata had violated his probation. Specifically, the State alleged that Mata had been charged in June 2021 with Level 6 felony operating a vehicle while being an HTV.
- [5] At an April 2022 hearing, Mata admitted that he had violated the terms and conditions of his probation. At a hearing the following month, sixty-eight-year-old Mata acknowledged that he had “racked up quite a criminal history over

[his] lifetime” and had multiple prior convictions for driving-related offenses, “including driving while suspended, driving without a license and then once [he] became habitual, driving as [an HTV].” (Tr. Vol. 2 at 56). Mata also acknowledged that he had violated the terms and conditions of his probation multiple times over the years. Mata told the trial court that he suffered from medical issues, including high blood pressure and diabetes, and asked the trial court to “revoke eighteen days for the violation of probation. Terminate the probation as unsuccessful.” (Tr. Vol. 2 at 63).

[6] At the conclusion of the hearing, the trial court stated as follows:

[T]he concern is the safety of the community, primarily with an individual who doesn’t seem to regard conditions the courts have imposed on him in the past and I’m not sure that any future conditions would be successful either[.] The court revokes six hundred forty days of the previously suspended sentence to be served at the Department of Correction[] and terminate[s] the probation as unsuccessful.

(Tr. Vol. 2 at 65-66).

[7] Mata now appeals.

## **Decision**

[8] Mata argues that the trial court abused its discretion when it ordered him to serve 640 days of his previously suspended sentence after he violated the terms and conditions of his probation. He specifically contends that “the record reflects evidence that warrants the imposition of a lesser penalty.” (Mata’s Br. 6). We disagree.

[9] Probation 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). Once a trial court has exercised its grace in this regard, it has considerable leeway in deciding how to proceed when the conditions of placement are violated. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). If this discretion were not given to trial courts and sentences were scrutinized too severely on appeal, trial courts might be less inclined to order probation. *Id.* Accordingly, a trial court's sentencing decision for a probation violation is reviewable for an abuse of discretion. *Id.* An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances. *Id.* If a trial court finds that a person has violated his probation before termination of the probationary period, the court may order execution of all or part of the sentence that was suspended at the time of the initial sentencing. IND. CODE § 35-38-2-3(h)(3).

[10] Here, in 2019, the trial court sentenced Mata to home detention and probation following his conviction for operating a vehicle while being an HTV. While on probation, Mata again committed the offense of operating a motor vehicle while being an HTV. Mata also acknowledged that he had a long history of committing driving offenses and violating probation. Based on these facts and circumstances, the trial court was well within its discretion when it ordered Mata to serve 640 days of his previously suspended sentence.

[11] Affirmed.

Riley, J., and Bradford, J., concur.