

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Matthew Goodman,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

February 20, 2023

Court of Appeals Case No.
22A-CR-2217

Appeal from the Scott Circuit
Court

The Honorable Jason M. Mount,
Judge

Trial Court Cause No.
72C01-1705-F5-46

Memorandum Decision by Judge Crone
Judges Robb and Kenworthy concur.

Crone, Judge.

Case Summary

- [1] Matthew Goodman appeals the sanction imposed by the trial court upon revocation of his probation. He contends that the trial court abused its discretion in ordering him to serve a portion of his previously suspended four-year sentence in the Department of Correction. Finding no abuse of discretion, we affirm.

Facts and Procedural History

- [2] In March 2018, Goodman pled guilty pursuant to a plea agreement to level 5 felony intimidation and level 6 felony domestic battery. The agreement fixed Goodman's sentence as concurrent terms of four years for intimidation and one year for battery, with all but four days suspended to probation. The trial court sentenced Goodman accordingly.
- [3] In May 2019, the State filed a petition for revocation of probation alleging that Goodman committed new crimes in cause number 10C04-1905-F5-98 (Cause F5-98) and failed to pay probation fees. The parties filed an agreement that Goodman would admit to the probation violations with disposition left to the trial court's discretion.
- [4] During the disposition hearing, Goodman admitted to not paying probation fees and failing "to refrain from committing a new criminal offense" in violation of his probation. Tr. Vol. 2 at 10-11. The State presented records from Cause F5-98 which indicated that twenty-eight-year-old Goodman pled guilty to level 5 felony sexual misconduct with a minor and level 6 felony

dissemination of harmful material to a minor, based upon his inappropriate behavior with a fourteen-year-old. The records revealed that the trial court in that cause sentenced Goodman to concurrent terms of six years for sexual misconduct and two years for dissemination of harmful material. The court ordered two years and 240 days of the sentence executed with the remainder suspended to probation.

[5] Goodman’s probation officer also testified during the disposition hearing and recommended that any sentence imposed on the probation violation be served in home detention. Based upon the admitted probation violations, the trial court revoked 726 days of Goodman’s previously suspended sentence and ordered him to serve that time in the Department of Correction. The court noted that normally it would be inclined to revoke Goodman’s entire suspended sentence based upon his admitted commission of “another major felony with a victim[,]” but decided that a lesser sanction was appropriate “in consideration” of Goodman’s compliance with the other terms of probation and the recommendation of his probation officer. *Id.* at 34. This appeal ensued.

Discussion and Decision

[6] Goodman appeals the sanction imposed by the trial court upon revocation of his probation. 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). We review the trial court’s sentencing

decision following the revocation of probation for an abuse of discretion. *Cox v. State*, 850 N.E.2d 485, 489 (Ind. Ct. App. 2006). 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). We consider the evidence most favorable to the judgment of the trial court, without reweighing that evidence or judging the credibility of the witnesses. *Ripps v. State*, 968 N.E.2d 323, 326 (Ind. Ct. App. 2012).

[7] Goodman’s sole assertion on appeal is that the trial court’s decision to revoke almost half of his previously suspended sentence was too harsh. However, 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 all or part 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*. In light of Goodman’s admission that while on probation he committed and pled guilty to the new crimes of level 5 felony sexual misconduct with a minor and level 6 felony dissemination of harmful material to a minor, the trial court was well within its discretion to determine that Goodman should serve roughly half of his previously suspended sentence in the Department of Correction. Contrary to Goodman’s assertions, the actual executed sentence he received for his new crimes is irrelevant to the trial court’s discretionary determination of the proper sanction for his admitted probation violations. We therefore conclude that the trial court did not abuse its discretion when it

ordered Goodman to serve a portion of his previously suspended sentence in the Department of Correction.

[8] Affirmed.

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