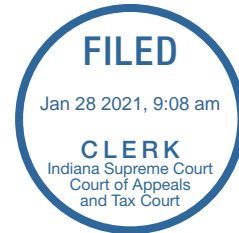


## MEMORANDUM DECISION

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

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Amanda K. Blades,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

January 28, 2021

Court of Appeals Case No.  
20A-CR-1279

Appeal from the Brown Circuit  
Court

The Honorable Mary Wertz, Judge

Trial Court Cause Nos.  
07C01-1810-F6-516  
07C01-1904-F6-122

**Pyle, Judge.**

## Statement of the Case

[1] Amanda Blades (“Blades”) appeals both the sentence imposed after she pled guilty to Level 6 felony unlawful possession of a syringe and the revocation of her probation in a separate cause based, in part, on the commission of that crime. She specifically argues that: (1) the 270-day sentence imposed for the Level 6 felony unlawful syringe possession conviction is inappropriate; and (2) the trial court abused its discretion when it ordered her to serve 180 days of her previously suspended sentence in the separate cause. Concluding that Blades’ sentence is not inappropriate and that the trial court did not abuse its discretion, we affirm the trial court’s judgment.

[2] We affirm.

## Issues

1. Whether Blades’ 270-day sentence for Level 6 felony unlawful possession of a syringe is inappropriate in light of the nature of the offense and her character.
2. Whether the trial court abused its discretion when it ordered Blades to serve 180 days of her previously suspended sentence in another cause after she violated the terms of her probation.

## Facts

[3] In January 2019, Blades pled guilty in Brown County to Level 6 felony unlawful possession of a syringe and Level 6 felony possession of a narcotic

drug in Cause Number 07C01-1810-F6-516 (“F6-516”). The trial court sentenced Blades to 365 days in the county jail with 337 days suspended to probation.

[4] In March 2019, the State filed a petition to revoke Blades’ suspended sentence. The petition alleged that Blades had failed to attend three appointments with her Brown County probation officer and had tested positive for morphine and norfentanyl.

[5] One month later, in April 2019, the State charged Blades in Brown County with Level 6 felony possession of a syringe and Class C misdemeanor possession of paraphernalia in Cause Number 07C01-1904-F6-122 (“F6-122”). The State filed a second petition to revoke Blades’ suspended sentence in F6-516 based upon the charges in F6-122.

[6] In July 2019, the State charged Blades in Marion County with Level 6 felony unlawful possession of a syringe, Class A misdemeanor operating a vehicle while intoxicated endangering a person, and Class C misdemeanor operating a vehicle while under the influence of a Schedule I or II controlled substance. One month later, in August 2019, the State charged Blades in Marion County with Class A misdemeanor operating a vehicle while intoxicated endangering a person and Class A misdemeanor operating a vehicle with a BAC of .15 or more.

[7] In August 2019, the State filed a third petition to revoke Blades’ suspended sentence in F6-516 based upon the charges in Marion County for Class A

misdelmearnor operating a vehicle while intoxicated endangering a person and Class A misdelmearnor operating a vehicle with a BAC of .15 or more.

- [8] In November 2019, Blades pled guilty pursuant to a plea agreement to Level 6 felony unlawful possession of a syringe in F6-122. The plea agreement provided that sentencing was within the trial court’s discretion but that the executed portion of the sentence should not exceed 365 days.
- [9] In December 2019 and June 2020, the trial court held a combined sentencing hearing for F6-122 and evidentiary hearing for the petitions to revoke Blades’ suspended sentence in F6-516. At the hearing, Blades admitted that she had committed the numerous probation violations as set forth in the three petitions to revoke her suspended sentence in F6-516. Blades explained that she had had “a bad year” and had made a lot of bad decisions but that she was “trying really hard.” (Tr. Vol. 2 at 16). According to Blades, she was employed and was just forty hours away from completing online training to become a reserve police officer. Blades testified that she planned to attend an unspecified “Police Academy” in the future and that she had already talked to multiple police departments about hiring her. (Tr. Vol. 2 at 52). Blades further testified that she had weekend visitation with her two children, who had been placed in a guardianship with Blades’ mother.
- [10] Also at the hearing, Blades’ probation officer (“the probation officer”) testified that Blades had not followed through with any of the probation officer’s substance abuse treatment recommendations. Specifically, the probation officer

testified as follows: “[T]here [is] always an excuse. I don’t have insurance. I can’t get there. I didn’t understand[.] Ms. Blades does what she wants to do, to be honest, and nothing that I recommend for her ever pans out.” (Tr. Vol. 2 at 59).

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

Alright, Ms. Blades, you do present kind of a - an issue here because your past performance on probation is certainly terrible, in terms of committing new offenses, continuing to use as evidenced by drugs screens and then new offenses and really not participating here in Brown County very well. Not checking in, not signing in, not really paying any attention for quite some time to your obligations here. And what you’ve done since, I’m not sure because of a lack of information. Your testimony is that you’ve been trying to do everything that you’ve been told to do, but I’ve got no evidence of that other than your testimony and I’m not sure what to think of your testimony because it seems to go here, there and everywhere sometimes. So when I look at how to balance these cases, in terms of both the petition to revoke, that you’ve admitted to 3 separate petitions violating your probation, and I think all of which occurred within the first 6 months you were placed on probation. And I have up to 337 days I can revoke in that matter. Your new offense, the 1904-F6-122, there are aggravating circumstances that I do consider. Since that offense was committed . . . you do - you did commit another offense[.] I have to consider, I cannot deny, your failed record on probation and that’s an aggravator as well. I do think that - that - as a mitigator, that you have worked at a job, consistently, for quite some time and that you certainly express a desire to get on track and to do what you need to do to be a productive member of society. So I can see this . . . that we’ve got a whole lot of - what appears to be progress made. But I can’t - I can’t deny and I can’t just forget the abysmal failure that has proceeded it. So, I do find that the - in . . . F6-122 that . . . I

have, by plea agreement, up to 365 days I can order. What I'm going to do is order, Ms. Blades, that you serve 270 days in the Brown County jail[.] [T]hat sentence is going to need to be consecutive to . . . F6-516[.] In the probation violation matter, that . . . F6-516, I'm going to revoke 180 days of your previously suspended sentence.

(Tr. Vol. 2 at 76-78).

- [12] Blades now appeals the sentence imposed in F6-122 and the trial court's order that she serve 180 days of her previously suspended sentence in F6-516.

## Decision

- [13] Blades argues that her sentence in F6-122 is inappropriate and that the trial court abused its discretion when it ordered her to serve 180 days of her previously suspended sentence in F6-516. We address each of her contentions in turn.

### 1. Inappropriate Sentence

- [14] Blades first argues that her sentence in F6-122 is inappropriate. Indiana Appellate Rule 7(B) provides that we may revise a sentence authorized by statute if, after due consideration of the trial court's decision, we find that the sentence is inappropriate in light of the nature of the offense and the character of the offender. The defendant bears the burden of persuading this Court that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). Whether we regard a sentence as inappropriate turns on the "culpability of the defendant, the severity of the crime, the damage done to others, and

myriad other factors that come to light in a given case.” *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008).

[15] The Indiana Supreme Court has further explained that “[s]entencing is principally a discretionary function in which the trial court’s judgment should receive considerable deference.” *Id.* at 1222. “Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant’s character (such as substantial virtuous traits or persistent examples of good character).” *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[16] When determining whether a sentence is inappropriate, the advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed. *Childress*, 848 N.E.2d at 1081. Here, Blades pled guilty to a Level 6 felony. The sentencing range for a Level 6 felony is between six (6) months and two and one-half (2½) years, and the advisory sentence is one (1) year. IND. CODE § 35-50-2-7(b). Here, the trial court sentenced Blades to 270 days, which is less than the advisory sentence.

[17] Regarding the nature of the offense, Blades committed the offense of unlawful possession of a syringe while she was on probation for a previous conviction for unlawful possession of a syringe. As for Blades’ character, Blades has a history of committing additional offenses in two different counties while on probation. Her former contacts with the law have not caused her to reform herself. *See*

*Jenkins v. State*, 909 N.E.2d 1080, 1086 (Ind. Ct. App. 2009), *trans. denied*.

Blades has failed to persuade this Court that her 270-day sentence, which is less than the advisory sentence for a Level 6 felony, is inappropriate.

## **2. Probation Revocation**

[18] Blades also argues that the trial court abused its discretion when it ordered her to serve 180 days of her previously suspended sentence in F6-516. We disagree.

[19] 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 her 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).

[20] Here, Blades admitted that she had violated the terms and conditions of her probation multiple times by: (1) committing additional crimes in two different counties, including the same crime for which she was on probation; (2) using



illegal drugs; and (3) failing to attend scheduled probation appointments. The trial court was well within its discretion when it ordered Blades to serve 180 days of her previously suspended sentence.

[21] Affirmed.

Vaidik, J., and Brown, J., concur.