

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.



ATTORNEY FOR APPELLANT

Victoria Bailey Casanova
Casanova Legal Services, LLC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jeffery Alan Grigsby,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff,

February 11, 2021

Court of Appeals Case No.
20A-CR-1438

Appeal from the Clay Superior
Court

The Honorable Robert A. Pell,
Judge

Trial Court Cause No.
11D01-1907-F4-615

Robb, Judge.

Case Summary and Issue

- [1] In 2019, Jeffery Grigsby pleaded guilty to possession of methamphetamine, a Level 4 felony. Grigsby was sentenced to six years in Clay County Community Corrections. In 2020, the State charged Grigsby with possession of methamphetamine and petitioned to have his placement in community corrections revoked. Following an evidentiary hearing, the trial court revoked Grigsby's placement in community corrections and ordered Grigsby to serve the remainder of his sentence in the Indiana Department of Correction ("DOC"). Grigsby now appeals, raising one issue which we restate as: whether the trial court abused its discretion in revoking his community corrections placement. Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

- [2] On November 18, 2019, Grigsby pleaded guilty to possession of methamphetamine, a Level 4 felony. Pursuant to the plea agreement, the trial court sentenced him to the DOC for six years, "fully executed on electronic home detention as a direct commitment[.]" Appellant's Appendix, Volume II at 72; *see* Transcript of Evidence, Volume II at 6.
- [3] On January 14, 2020, Grigsby admitted to his home detention officer Rick Lewis that he had ingested methamphetamine in the last twenty-four hours. Grigsby told Officer Lewis that he would not be able to pass a drug screen. *See* Tr., Vol. II at 29. Grigsby's drug use violated the terms of his home detention.

See Volume of Exhibits, Volume III at 3-7. Grigsby also admitted to having methamphetamine in his home, another violation of his home detention. *See id.* Grigsby was arrested and placed in custody.

[4] On January 16, 2020, the State charged Grigsby with possession of methamphetamine, a Level 4 felony. The next day, following an initial hearing, Grigsby was released from custody and ordered to report to home detention on January 21; however, he never reported. Grigsby's failure to report upon his release from custody constituted another violation of the terms of his electronic home detention. *See id.*

[5] The State filed a petition to revoke Grigsby's placement in community corrections on the basis of these violations. The trial court held an evidentiary hearing on June 29 and determined that the State proved by a preponderance of the evidence the allegations contained in the petition to revoke, and the trial court ordered Grigsby to serve the remainder of his sentence in the DOC. Grigsby now appeals.

Discussion and Decision

I. Standard of Review

[6] Placement in community corrections is at the sole discretion of the trial court. *Treece v. State*, 10 N.E.3d 52, 56 (Ind. Ct. App. 2014) (citation omitted), *trans. denied*. A defendant is not entitled to serve a sentence in a community corrections program. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999).

Rather, placement is a “matter of grace” and a “conditional liberty that is a favor, not a right.” *Id.* (citation omitted). Our standard of review of an appeal from the revocation of a community corrections placement mirrors that for revocation of probation. *Cox v. State*, 706 N.E.2d 547, 551 (Ind. 1999). Thus, we review for an abuse of discretion. *See Johnson v. State*, 62 N.E.3d 1224, 1229 (Ind. Ct. App. 2016). An abuse of discretion occurs if the trial court’s decision is against the logic and effect of the facts and circumstance, or when the trial court misinterprets the law. *Madden v. State*, 25 N.E.3d 791, 795 (Ind. Ct. App. 2015), *trans. denied*. The State need only prove the alleged violations by a preponderance of the evidence, and 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. *Monroe v. State*, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009).

II. Community Corrections Revocation

[7] Revocation of a community corrections placement is a two-step process. *See Ripps v. State*, 968 N.E.2d 323, 326 (Ind. Ct. App. 2012). First, the trial court must make a factual determination that a violation of a condition of community corrections actually occurred. *See id.* Then, if a violation is proven, the trial court must determine if the violation warrants revocation of the community corrections placement. *See id.*

[8] Grigsby does not dispute that he violated the terms of his community corrections placement. Instead, he argues that “[t]he record is unclear as to

whether the trial court actually engaged in the second step of the required two-step process before revoking [his] community corrections placement.”

Appellant’s Brief at 10. Grigsby further contends that “nothing in the record indicates that the trial court understood what discretion it had in this matter[.]” *Id.* at 11. We disagree.

[9] A trial court abuses its discretion when it misinterprets the law. *Madden*, 25 N.E.3d at 795. However, “there is a strong presumption on appeal that a trial court has acted correctly and properly followed the applicable law.” *Moran v. State*, 622 N.E.2d 157, 159 (Ind. 1993). And the party challenging a trial court’s conclusion must overcome this strong presumption.

[10] Here, there is nothing in the record to suggest that the trial court did not fully understand its discretion in the matter or that it believed Grigsby’s violation required the revocation of his community corrections placement. At the evidentiary hearing, Grigsby’s trial counsel explicitly reminded the trial court that “[e]ven after the violation is proven the Court must determine if the violation warrants revocation.” Tr., Vol. II at 67. Further, during the hearing, the trial court took a recess specifically to review the case law presented by Grigsby’s trial counsel. *See id.* at 70. Thus, we conclude the record indicates the trial court was aware of the revocation process and made its decision to revoke Grigsby’s community corrections placement with careful consideration and due diligence.

Conclusion

[11] We conclude that the trial court did not abuse its discretion when it revoked Grigsby's placement in community corrections. Therefore, we affirm.

[12] Affirmed.

Bailey, J., and Tavitas, J., concur.