

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

LaJonte Hall,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

July 18, 2023

Court of Appeals Case No.  
23A-CR-168

Appeal from the Howard Superior  
Court

The Honorable William C.  
Menges, Jr., Judge

Trial Court Cause Nos.  
34D01-0902-FA-139  
34D01-1510-F2-948

**Memorandum Decision by Judge Crone**  
Judge Brown and Senior Judge Robb concur.

**Crone, Judge.**

## Case Summary

- [1] LaJonte Hall appeals the sanction that was ordered following his violation of probation. We affirm.

## Facts and Procedural History

- [2] In February 2009, the State charged Hall in cause 34D01-0902-FA-139 (FA-139) with four counts of dealing in cocaine. Three of the counts were class A felonies, and one was a B felony. Per an August 2009 agreement, Hall pled guilty to the A felonies, the State agreed not to prosecute a probation violation in cause 34D02-0206-FB-208 (FB-208), and the parties specified that probation would “remain in effect” for FB-208. Appellant’s App. Vol. 2 at 61. Accordingly, the trial court entered judgment of conviction in FA-139 and ordered a twenty-five-year sentence, with twenty years executed in the Indiana Department of Correction (DOC) and five years suspended to probation.
- [3] In May 2015, Hall’s probationary term in FA-139 began, and the court granted him permission to participate in a community transition program. In October 2015, the State charged Hall in cause 34D01-1510-F2-948 (F2-948) with six counts: level 2 felony dealing in cocaine, level 3 felony possession of cocaine, level 5 felony dealing in a schedule IV controlled substance, level 4 felony unlawful possession of a firearm by a serious violent felon, level 6 felony maintaining a common nuisance, and class A misdemeanor possession of a controlled substance. *Id.* at 190. That same month, the State filed a petition to revoke Hall’s suspended sentence in FA-139.

- [4] Per an April 2016 agreement, Hall agreed to plead true to the revocation petition in cause FA-139 and to plead guilty to level 3 felony cocaine dealing in F2-948. *Id.* at 206-07. The same agreement provided that sentencing in FA-139 would be left to the court’s discretion and that sentencing in F2-948 would be executed at the DOC with the court given discretion to set the term up to fifteen years. In a May 2016 order regarding FA-139, the court accepted Hall’s true pleading, found that he had violated probation, imposed the balance (1,825 days) of Hall’s suspended sentence to be served in the DOC, recommended that Hall be placed in “a therapeutic community” in the DOC, reserved the right to modify Hall’s sentence upon program completion, and specified that the 1,825 days would be served consecutively to any sentence for F2-948. *Id.* at 93, 209.
- [5] In a June 2016 order regarding cause F2-948, the court accepted Hall’s guilty plea, sentenced him to 5,475 days, recommended placement in a therapeutic community at the DOC, reserved the right to modify his sentence upon program completion, and specified that the sentence would be served consecutive to his FA-139 sentence. *Id.* at 94. In May 2017, Hall petitioned for modification of his sentences in both FA-139 and F2-948. *Id.* at 99-100. In June 2017, the court granted Hall’s petition as to FA-139, modified Hall’s sentence “to reflect that the balance” be served on supervised probation, and released Hall “as to this cause only.” *Id.* at 105.
- [6] Less than a year later, the State filed its Petition to Revoke Suspended Sentence in F2-948, alleging that Hall was found to be in possession of cocaine during an April 6, 2018 probation compliance check home visit. *Id.* at 240. Around that

same time, in a petition to revoke Hall's suspended sentence in FA-139, the State alleged that on April 6, 2018, Hall committed class B misdemeanor visiting a common nuisance in cause 34D03-1804-CM-287 (CM-287). *Id.* at 108-09. In June 2018, the State filed a request to withdraw its April 2018 petition to revoke suspended sentence in F2-948, which the trial court granted.

- [7] In a March 2020 petition to revoke Hall's suspended sentences in both FA-139 and F2-948, the State alleged that Hall never reported to the probation department to resume his probationary sentence after the State withdrew its petition to revoke suspended sentence in F2-948. *Id.* at 121. In a December 2020 order, the court accepted Hall's true pleading as to the March revocation petition, found that he had violated the terms of his probation, returned him to probation, and extended probation for 365 days in F2-948. *Id.* at 140.
- [8] In an April 2021 order concerning FA-139, the court accepted Hall's admission to operating a vehicle while intoxicated on April 7, 2021, as charged in cause 34D03-2104-CM-1225 (CM-1225). The court modified Hall's probation terms, ordering that he "serve 90 credit days or 45 actual days on In-Home Detention." *Id.* at 142-44. In June 2021, the State filed another petition to revoke suspended sentence in FA-139, this time alleging that Hall committed level 6 felony possession of cocaine as charged in 34D04-2106-F6-2051 (F6-2051). *Id.* at 145-46.
- [9] Hall was arrested in May 2022 for the alleged June 2021 cocaine possession. In June 2022, he was placed on work release per the probation department's

recommendation. *Id.* at 18. In November 2022, the court held a factfinding hearing regarding the June 2021 petition to revoke, entered a judgment of conviction, set the matter for sentencing in December 2022, and referred the matter to probation for a recommendation. Days before the scheduled sentencing, the work release program filed a notice that Hall violated conditions of work release, specifically alleging that he had been “out of bounds on three occasions.” *Id.* at 158-59.<sup>1</sup> On December 27, 2022, the court held a sentencing hearing, heard Hall’s testimony, and acknowledged the probation department’s recommendation for an executed sentence. The court ordered Hall to serve the balance of his suspended sentence for FA-139 (815 days, with jail time credit of 229 actual days or 458 credit days) and for F2-948 (5,186 days) in the DOC. The court required that the executed terms be served consecutively. *See* Appealed Orders. Hall appeals the sanction ordered upon the revocation of his probation.

## **Discussion and Decision**

[10] Hall asserts that the trial court “abused its discretion when ordering [him] to serve the remainder of his suspended sentence in the [DOC] in lieu of the Howard County work release program.” Appellant’s Br. at 8. We disagree.

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<sup>1</sup> Hall was deemed out of bounds for being somewhere that was not authorized by his requested pass. For instance, he was seen in Kokomo when he claimed to be in Indianapolis. Tr. Vol. 2 at 7.

[11] 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). In determining the appropriate sanction upon finding a probation violation, trial courts are not required to balance aggravating and mitigating circumstances. *Treece v. State*, 10 N.E.3d 52, 59 (Ind. Ct. App. 2014), *trans. denied*. 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 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*.

[12] We review the trial court’s 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).

[13] At the conclusion of the hearing, the court explained its rationale as follows:

[T]he defendant has an extensive criminal history. Uh he was modified out of the Department of Correction um back in 2017 on an early release. Um, the violations that are pertinent in this case um regard the allegation of the commission of a new crime as charged under cause number 34D04-2106-F6-2051. In that case um as the defendant testified he intends to enter a plea of

guilty uh and its set for sentencing next week. The that matter was referred to the probation department for recommendation um some time ago. And the[ir] recommendation at that point was that the defendant in that case be sentenced to work release. Which was the basis for putting him in work release in connection with these two cases um pending sentencing on the underlying violation. Without getting into the discrepancy in good time credit and so forth in cause number 34D01-0902-uh FA-139 um and cause number 34D01-1906-F6-1725, the defendant is and was at the time of his release to work release facing um a little better than 10 actual years in the Department of Correction. That would I think offer a great deal of incentive to follow the rules of uh work release. I agree that the violations of his work release were relatively minor. Um what's interesting is the third one he was at least uh from his testimony um walking to meet his ride when the rules at work release very clearly state that any rides are to be uh started and ended at the work release facility. Um so his justification for being out of bounds was that he was violating a rule of work release. Um, I think the criminal thinking um is overwhelming in this case. I think therefore [it's] appropriate that in cause number 34D01-0902-FA-139 the court imposes the uh balance of the defendant's suspended sentence which the court finds to be 957<sup>[2]</sup> days. He's given credit for 229 actual or 458 credit days served while waiting disposition in this matter. And basically what I'm doing is giving him credit from uh May 12th 2022 when he was arrested through today because frankly that period of time he was either in jail or in the Howard County Work Release Facility. And with cause number 34D01-1510-F2-948 I'm going to order the balance of the defendant's suspended sentence which the court finds to be 5,186 days executed. He is given no credit time. He's remanded to the

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<sup>2</sup> Neither party mentions, explains, or questions the discrepancy between this number and the number of days set out in the appealed order. Accordingly, we do not address it.

custody of the sheriff to be transported to the Department of Correction.

Tr. Vol. 2 at 20-21.

[14] In challenging the sanction of serving the balance of his sentence, Hall focuses on his completion of substance abuse treatment, what he terms his “relative success” in work release, and his contention that family “relied upon him.” Appellant’s Br. at 11. Hall testified that he completed a four-month substance abuse program sometime between his commission of level 6 felony possession of cocaine (F6-2051) in 2021 and his June 2022 placement on work release for F6-2051. Hall also stresses that he “committed no new offenses” while on work release between June and December 2022. *Id.* at 10.

[15] While engaging in substance abuse programming is admirable, such participation does not preclude the reinstatement of a previously suspended sentence when a defendant violates a rule of probation. Here, as the court pointed out, Hall violated the rule against committing another offense when he committed cocaine possession in F6-2051. As for Hall’s purported “relative success” in work release, his commission of no new offenses is less compelling given that his relevant work release period was only six months. Moreover, within those brief six months, Hall violated work release rules three separate times: once each in August, November, and December 2022. The court observed that while Hall’s three out-of-bounds rule violations might be considered “relatively minor” in certain circumstances, they were essentially



another example of Hall's overwhelming "criminal thinking." Tr. Vol. 2 at 20.<sup>3</sup> In sum, this was not Hall's first run-in with rule violations. As the probation department's memo to the trial court outlined in detail, and as can be gleaned from the lengthy procedural history we have provided, Hall "has struggled since" 2015 with abiding by rules of probation. Appellant's App. Vol 2 at 158-59.

[16] Having found that Hall violated probation, the trial court was within its discretion to order execution of the remainder of the sentence that previously had been suspended. In doing so, the court did not need to balance Hall's completion of substance abuse programming, his performance on work release, or his family situation (about which he does not elaborate in his brief on appeal). Considering the evidence most favorable to the judgment and without reweighing either the evidence or witness credibility, we cannot say that the decision to order Hall to serve the remainder of his suspended sentence in FA-139 and F2-948 was clearly against the logic and effect of the facts and circumstances that were before the court. Indeed, we recognize the grace shown over the years by the trial court in offering Hall multiple opportunities to avoid an executed sentence in the DOC. Hall did not take advantage of these

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<sup>3</sup> Requiring someone who has committed several drug-related crimes to be where he says he will be hardly seems like an irrational or overly strict rule. Further, the court heard Hall's explanation regarding each time he was not where he was supposed to be, and it was the court's prerogative to judge his credibility and weigh the evidence.

opportunities and has not demonstrated that the trial court abused its discretion in determining the sanction for violating his probation.

[17] Affirmed.

Brown, J., and Robb, Sr.J., concur.