

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Aron J. Swopshire,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

October 31, 2023

Court of Appeals Case No.
23A-CR-1156

Appeal from the Allen Superior
Court

The Honorable Samuel R. Keirns,
Magistrate

Trial Court Cause No.
02D05-2008-F5-334

Memorandum Decision by Judge Pyle

Judges Tavitas and Foley concur.

Pyle, Judge.

Statement of the Case

[1] Aron J. Swopshire (“Swopshire”) appeals the sanction imposed following the revocation of his probation. Swopshire argues that the trial court abused its discretion when it ordered him to serve 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 Swopshire to serve his previously suspended sentence.

Facts

[3] In August 2020, the State charged Swopshire with Level 5 felony domestic battery resulting in bodily injury to a pregnant woman and Level 5 felony strangulation. In May 2021, Swopshire entered into a plea agreement with the State. Pursuant to the plea agreement, Swopshire pleaded guilty to the Level 5 felony domestic battery resulting in bodily injury to a pregnant woman charge. In exchange, the State dismissed the Level 5 felony strangulation charge. At sentencing, the trial court accepted the plea agreement and sentenced Swopshire to three (3) years at the Indiana Department of Correction (“the DOC”). The trial court suspended Swopshire’s sentence to probation. As a term of probation, the trial court issued a no-contact order prohibiting Swopshire from contacting S.G., the victim of his domestic battery conviction.

[4] In October 2022, Ft. Wayne Police Department Sergeant Barry Pruser (“Sergeant Pruser”) responded to a dispatch of a battery in progress. When Sergeant Pruser arrived on the scene, he saw “a male shaking a female violently.” (Tr. at 8). When Sergeant Pruser approached, the male and female headed in opposite directions. Additional officers responded to the dispatch, and officers identified Swopshire as the male and S.G. as the female. As a result, the State charged Swopshire with Level 5 felony domestic battery, Level 6 felony domestic battery, and Class A misdemeanor invasion of privacy. Allen County Probation filed a petition to revoke probation due to these new charges.

[5] In April 2023, the trial court held a probation revocation hearing. At the hearing, the trial court heard the facts as set forth above. Additionally, Swopshire testified that he had maintained contact with S.G. in violation of his no-contact order. At the conclusion of the hearing, the trial court found that Swopshire had violated the terms of his probation by violating the no-contact order. The trial court revoked Swopshire’s probation and ordered him to serve his previously suspended sentence at the DOC.

[6] Swopshire now appeals.

Decision

[7] Swopshire argues that the trial court abused its discretion when it ordered him to serve his previously suspended sentence. “[A] trial court’s sentencing decisions for probation violations are reviewable using the abuse of discretion standard.” *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007) (citing *Sanders v.*

State, 825 N.E.2d 952, 956 (Ind. Ct. App. 2005), *trans. denied*). An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. *Id.*

[8] INDIANA CODE § 35-38-2-3(h)(3) provides:

(h) If the court finds that the person has violated a condition [of probation] at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may impose one (1) or more of the following sanctions:

* * * * *

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

“Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed.” *Prewitt*, 878 N.E.2d at 188. “If this discretion were not [given] to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” *Id.* Further, it is well settled that a single “violation of a condition of probation is enough to support a probation revocation.” *Pierce v. State*, 44 N.E.3d 752, 755 (Ind. Ct. App. 2015).

[9] Swopshire argues that the trial court could have “determine[d] that perhaps a different sentence was justified, specifically one with less executed time and/or perhaps an extension of his probation[.]” (Swopshire’s Br. 13). However, we

review the trial court's sentencing decisions only for an abuse of discretion, and here, we find none.

[10] Our review of the record reveals that Swopshire, at his probation revocation hearing, admitted to violating the no-contact order that had been made a term of his probation. The trial court, at the conclusion of the revocation hearing, ordered Swopshire to serve his previously suspended sentence at the DOC. Considering the record before us, the sanction imposed was well within the trial court's discretion. *See* I.C. § 35-38-2-3(h)(3). Accordingly, we affirm the trial court's order.

[11] Affirmed.

Tavitas, J., and Foley, J., concur.