

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Blaze Downey,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

February 16, 2023

Court of Appeals Case No.  
22A-CR-2215

Appeal from the Dearborn Circuit  
Court

The Honorable James D.  
Humphrey, Judge

Trial Court Cause No.  
15C01-1903-F5-35

**Memorandum Decision by Judge Crone**  
Judges Robb and Kenworthy concur.

**Crone, Judge.**

## Case Summary

- [1] Blaze Downey appeals the sanction imposed by the trial court upon revocation of his probation. He contends that the trial court abused its discretion when it ordered him to serve the balance of his previously suspended sentence in the Department of Correction. Finding no abuse of discretion, we affirm.

## Facts and Procedural History

- [2] In March 2019, the State charged Downey with level 5 felony battery resulting in serious bodily injury based on allegations that Downey, while incarcerated in the Dearborn County Jail, struck a fellow inmate several times, fracturing the inmate's ribs and causing extreme pain. The State also alleged that Downey was a habitual offender. In May, the parties entered into a plea agreement, in which Downey agreed to plead guilty to level 6 felony battery resulting in moderate bodily injury and the State agreed to dismiss the habitual offender enhancement and to recommend a sentence of 545 days, suspended to probation, to be served consecutive to any other sentences Downey was currently serving. The terms of probation included not committing another criminal offense and not consuming illegal controlled substances. The trial court accepted the plea agreement and imposed the State's recommended sentence.
- [3] In April 2022, a sergeant with the Dearborn County Sheriff's Department met with Downey in the parking lot at Widolff's General Store and Tavern near New Alsace because Downey wanted clarification regarding a protective order

that had been issued against him. Just prior to the meeting, the sergeant was informed that there was a new warrant issued for Downey's arrest. After the sergeant explained the protective order to Downey, he informed Downey that there was a new warrant out for his arrest and asked Downey to exit his vehicle. Downey told the sergeant that he was not exiting the vehicle and that "[w]e're going on a chase." Tr. Vol. 2 at 31. Downey drove off, and a chase ensued. The sergeant at times reached speeds over eighty miles per hour as he attempted to stop Downey. Only when one of his tires deflated did Downey finally stop. Even then, Downey refused to exit his vehicle. Eventually, the police were able to take him into custody.

[4] The State filed a notice of probation violation alleging that Downey had tested positive for amphetamine and methamphetamine and had committed level 6 felony resisting law enforcement with a vehicle. In July 2022, the trial court held a hearing, at which Downey admitted the violations. In August, the trial court held a sanctions hearing. Downey argued that he should be placed at the Dearborn County Jail where a sixteen-week program helping participants to identify substance abuse disorders was available. The court noted that the chase Downey led officers on created a substantial danger to the public. Downey also had a criminal history of seven felonies including a rape conviction, seven or eight probation violations, multiple violations of the conditions for in-home incarceration, been previously placed in a treatment facility, and been terminated from the Drug Court program. The court concluded that Downey's history showed that he would not be successful on probation, revoked his

probation, and ordered him to serve all 545 days in the Department of Correction. This appeal ensued.

## Discussion and Decision

[5] 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).

[6] Downey contends that because he took responsibility for his conduct, recognized his substance abuse issues and need for intensive therapeutic treatment, and had applied to a substance abuse program that was available at the Dearborn County Jail, the trial court abused its discretion in ordering him to serve the entirety of his suspended sentence. We note that Downey had not been accepted into the substance abuse program and that he had been found ineligible for a more intensive, therapeutic program at the jail. 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*. Given that Downey committed multiple violations of his probation, both of which are crimes, in addition to his prior criminal history, probation violations, and the unsuccessful attempts at offering him leniency and treatment, we cannot say that the trial court abused its discretion in ordering him to serve the entirety of his suspended sentence in the Department of Correction.

[7] Affirmed.

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