

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Shawn Demetrius Moran,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 5, 2023

Court of Appeals Case No.
22A-CR-2915

Appeal from the
Vigo Superior Court

The Honorable
John T. Roach, Judge

Trial Court Cause No.
84D01-2106-F5-1949

Memorandum Decision by Judge Foley
Judges Vaidik and Tavitas concur.

Foley, Judge.

[1] Shawn Demetrius Moran (“Moran”) appeals from the trial court’s order revoking his in-home detention placement. He raises one issue for our review: whether the trial court abused its discretion when it revoked Moran’s in-home detention and ordered him to serve the remainder of his executed sentence on work release. Because we find no abuse of discretion, we affirm.

Facts and Procedural History

[2] On June 11, 2021, Moran pleaded guilty to Level 5 felony dealing in a schedule IV-controlled substance¹. He was sentenced to five years in the Department of Correction with one-and-a-half years of the sentence to be served on direct placement in work release, two-and-a-half years on in-home detention, and one year suspended to probation.

[3] On November 30, 2021, Moran began to serve the direct placement work release portion of his sentence at Vigo County Community Corrections Work Release Center (“the Facility”). The Facility required Moran to travel to and from work by an approved route with an allotted travel time of thirty minutes. If Moran expected to arrive late for any reason, he was required to notify the Facility of his whereabouts and what time he would arrive. Moran was also prohibited from using tobacco or any illegal substances. On September 21, 2022, the State filed a petition to revoke Moran’s placement in work-release, alleging the following violations of his Community Corrections placement: (1)

¹ Ind. Code § 35-48-4-3(a)(2).

possession of tobacco in the dormitory; (2) possession of a green, leafy substance in the dormitory; (3) failure to travel on his approved route on eight occasions; and (4) returning late to the Facility on ten different occasions. Moran's tardiness ranged from being twenty minutes to four hours late, with him being over an hour late on five of those occasions. Moran denied these allegations.

[4] At the evidentiary hearing on November 9, 2022, Moran's work-release case manager, Abby Shidler ("Shidler") testified that Moran walked to and from work and that he had limited mobility due to a prior injury. Shidler noted that the Facility's policy does not allow individuals to be allotted additional travel time based on physical limitations. Moran did not request any additional travel time due to his physical limitations. Therefore, Moran was expected to travel to and from the Facility within a thirty-minute window allotted by Shidler. At the conclusion of the hearing, the trial court found that Moran violated the conditions of his work release and ordered him to serve 120 days in Vigo County Jail, with the balance of his executed sentence to be served in work-release and revoked the in-home detention portion of his sentence. The trial court further stated that Moran could request a modification of his work-release placement once he had not more than one-and-a-half years remaining on his sentence. Moran now appeals.

Discussion and Decision

[5] Moran argues that the trial court abused its discretion when it revoked his placement on in-home detention and ordered him to serve the remainder of his executed sentence on work release.² This court's standard in reviewing the revocation of a direct placement in Community Corrections or work-release is similar to that of a probation revocation. *Cox v. State*, 706 N.E.2d 547, 551 (Ind. 1999). "Probation is a matter of grace left to the trial court's discretion, not a right to which a criminal is entitled." *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). The trial court has the discretion to determine the conditions of probation and may revoke probation if those conditions are violated. *Id.* Evidence of a single violation is sufficient to revoke probation. *Smith v. State*, 727 N.E.2d 763, 766 (Ind. Ct. App. 2000). If a trial court determines that a person has violated a term or condition of probation within the probationary period, the court may impose one or more of the following sanctions:

- (1) Continue the person on probation, with or without modifying or enlarging condition.
- (2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.

² Moran does not appeal the trial court's finding that he violated the terms of his work-release placement.

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

Ind. Code 35-38-2-3(h). “A trial court’s sanction following a probation revocation is reviewed only for an abuse of discretion.” *Prewitt*, 878 N.E.2d at 188. An abuse of discretion occurs when the decision is clearly against the logic and effect of the facts and circumstances. *Overstreet v. State*, 136 N.E.3d 260, 263 (Ind. Ct. App. 2019), *trans denied*.

[6] Moran violated the Facility’s terms by failing to travel to and from work on an approved route, returning to the Facility late and without notice, and using tobacco products. Thus, the question that remains is whether it was an abuse of the trial court’s discretion to revoke Moran’s in-home detention placement.

[7] Moran contends that his violations were minor and largely explained by his limited mobility. Moran is accurate to point out that the Facility’s policy does not permit individuals to be given additional travel time based on physical limitations. However, the record is silent regarding whether Moran proactively sought an exception to the policy. Over an approximate three-month period, Moran received eight conduct violations for returning late to the Facility without accounting for his whereabouts. Moran’s tardiness ranged from being twenty minutes to four hours late. On three occasions Moran was more than one hour late, on one occasion he was nearly two hours late, and on another occasion, he was four hours late. Moran failed to inform the Facility of his whereabouts on all of the aforementioned occasions. We observe that Moran was not occasionally late by a few minutes, rather, Moran was excessively late

and unaccounted for on a consistent basis. Additionally, Moran failed to present any evidence to support what a reasonable amount of travel time would be. Moran has failed to demonstrate any connection between Moran's violations and his physical limitations.

[8] Furthermore, Moran's failure to account for his whereabouts frustrates a fundamental purpose of the work-release program—to allow the defendant to work in the community while maintaining proper supervision and accountability. Additionally, Moran fails to address the possession of tobacco violations. We also note that even if the trial court found that Moran's numerous violations were minor or technical, the trial court has the discretion to revoke probation if it finds that there was a single violation. *Smith*, 727 N.E.2d at 766.

[9] We find that the trial court had a sufficient basis to revoke Moran's in-home detention placement based upon Moran's chronic and continual violations. Moran's inability to abide by the work-release rules is an abuse of his opportunity to be placed in a less restrictive environment. “[P]robation is a matter of grace left to the trial court's discretion, not a right . . .” *Prewitt*, 878 N.E.2d at 188. The trial court did not abuse its discretion when it revoked the in-home detention portion of his sentence.

[10] Affirmed.

Vaidik, J., and Tavitas, J., concur.