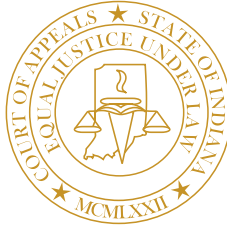


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

James Anderson,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



November 25, 2025

Court of Appeals Case No.
25A-CR-776

Appeal from the Marion Superior Court
The Honorable Marshelle Broadwell, Judge

Trial Court Cause No.
49D07-2305-F5-15041

Memorandum Decision by Judge Kenworthy
Judges Foley and Scheele concur.

Kenworthy, Judge.

Case Summary

- [1] James Anderson appeals the trial court’s revocation of his probation. He raises two issues for review: (1) Did the trial court abuse its discretion in admitting hearsay evidence during the probation revocation hearing?; and (2) Was there sufficient evidence to support the revocation? We also address an issue raised by the State’s brief on appeal: May this Court rely on substantive facts contained in an underlying probable cause affidavit?
- [2] Because it is unclear if the trial court took judicial notice of the facts within the probable cause affidavit, we limit our review to the facts presented at the probation revocation hearing. As to the hearsay statements, we hold the trial court abused its discretion in admitting a hearsay statement made on a 9-1-1 call but did not abuse its discretion in admitting a hearsay statement made directly to an investigating police officer. Yet even without considering the facts contained in the underlying probable cause affidavit or the hearsay statement made on the 9-1-1 call, there was sufficient evidence to support revoking Anderson’s probation. We therefore affirm.

Facts and Procedural History

- [3] In April 2024, Anderson pleaded guilty to Level 5 felony unlawful carrying of a handgun. The trial court sentenced him to 1,095 days in the Indiana Department of Correction (“DOC”) with 1,031 days suspended to reporting probation. Among other conditions of probation, Anderson was ordered to: (1)

not commit a new criminal offense; (2) not possess a firearm, destructive device, or other dangerous weapon; (3) not associate with anyone who violates the law or a convicted felon without his probation officer's approval; and (4) notify probation of any address change.

[4] In September, while on probation, Anderson was arrested and charged under cause number 49D07-2409-F3-28066 ("Cause 28066") with four offenses, including Level 5 felony unlawful carrying of a handgun with a prior felony conviction. Based on the probable cause affidavit in Cause 28066, the State filed a notice of probation violation in this case, alleging Anderson violated his probation terms by committing new offenses, possessing a firearm, and associating with a person who had two pending criminal cases. The State also alleged Anderson failed to inform probation of an address change.

[5] On Anderson's motion, the trial court held a contested hearing on the probation violation on March 24, 2025. Cause 28066 was then still pending. At the hearing, the State called Indianapolis Metropolitan Police Department ("IMPD") Detective Tracy Dobbs as a witness to testify to the events leading to Anderson's arrest in Cause 28066, which occurred near the dividing line between Hamilton and Marion Counties and involved both the Carmel Police Department ("CPD") and IMPD. Detective Dobbs wrote the probable cause affidavit in Cause 28066.

[6] Over Anderson's hearsay objection—which the trial court overruled because "[it's] a probation matter"—Detective Dobbs testified that on September 25,

2024, CPD was dispatched to 96th Street to respond to a 9-1-1 caller reporting he had been kidnapped and held against his will. *Tr. Vol. 2* at 4. CPD arrived, took three people into custody, and then contacted IMPD because it appeared the precipitating events began in Marion County. When Detective Dobbs arrived on scene, only two people were there besides law enforcement: the unnamed alleged victim and Anderson. Anderson was detained in a CPD car. The State then asked the trial court to “take judicial notice of [Cause 28066], which is filed in this court” and judicially notice that “probable cause was found for [Anderson’s] arrest in that matter.” *Id.* at 5. The trial court responded: “So, noted.” *Id.* Anderson did not object.

- [7] The State then asked: “Was there anything to do with firearms while you were there at the scene?” *Id.* at 6. Over Anderson’s hearsay objection, which the trial court overruled without explanation, Detective Dobbs testified: “The victim alleged that he was held at gunpoint and . . . Anderson pulled a weapon and was waving [it] around the car as they were driving[.]” *Id.* Another detective on scene applied for a warrant, and after obtaining it, Detective Dobbs searched the car and located “a small black semi-automatic” firearm “tucked up against” the driver’s seat “down on the right hand side.” *Id.* at 6, 9. The State elicited no testimony about the car’s ownership. On cross-examination, Detective Dobbs testified he spoke directly to the victim and believed the car was Anderson’s because: “It’s the car that they arrived in The victim told me [they arrived in it]. And I have video of him getting out of it.” *Id.* at 7.

- [8] Anderson also testified. He did not claim the car was his but responded affirmatively when asked if “[o]ther people” had access to and drove the car. *Id.* at 22. He testified he did not know there was a gun in the car. No other witnesses testified as to Cause 28066.
- [9] After the close of evidence, the trial court stated it “is taking judicial notice of the court’s own records,” specifically the order of probation in this case. *Id.* at 23. After hearing both parties’ arguments, the trial court found by a preponderance of the evidence that Anderson violated the terms of his probation by committing a new offense—unlawful carrying of a handgun with a prior felony conviction—and by possessing a firearm. The trial court revoked Anderson’s probation and ordered him to serve the balance of his sentence in the DOC.

We decline to consider the facts contained in the Cause 28066 probable cause affidavit.

- [10] Before addressing Anderson’s contentions on appeal, we must address the contents of the State’s brief. The State’s recitation of the facts and argument draw from the facts contained in the probable cause affidavit in Cause 28066. The State did not introduce the affidavit at the probation revocation hearing, and it does not appear in the appellate record. But the State obtained the

affidavit from MyCase¹ for the purposes of appeal, reasoning the document was appropriate to cite because the trial court took judicial notice of Cause 28066 at the hearing. *See Appellee's Br.* at 6 n.2.

[11] Under the Indiana Rules of Evidence, a court may take judicial notice of “the existence of . . . records of a court of this state.” Ind. Evidence Rule 201(a)(2) (2014). “Even if court records may be judicially noticed, facts recited within the pleadings and filings that are not capable of ready and accurate determination are not suitable for judicial notice.” *In re P.B.*, 199 N.E.3d 790, 796–97 (Ind. Ct. App. 2022) (internal quotation marks and citation omitted), *trans. denied*. “Unless principles of claim preclusion apply, judicial notice should be limited to the fact of the record’s existence, rather than to any facts found or alleged within the record of another case.” *Id.* at 797.

[12] Of course, a probation revocation hearing is not to be equated with an adversarial criminal proceeding; “it is a narrow inquiry, and its procedures are to be more flexible.” *Cox v. State*, 706 N.E.2d 547, 550 (Ind. 1999). Such flexibility is “necessary to permit the court to exercise its inherent power to enforce obedience to its lawful orders.” *Id.* Accordingly, the Indiana Rules of Evidence in general do not apply to probation hearings. *Id.*; *see also* Evid. R. 101(d)(2) (2014).

¹ MyCase is the public access website for the Odyssey Case Management System provided by the Indiana Office of Judicial Administration. Cause 28066 is no longer available for public access via MyCase, as the case has been dismissed and the records sealed.

[13] This Court has held a trial court may judicially notice a probable cause affidavit in a probation revocation proceeding. See *Whatley v. State*, 847 N.E.2d 1007, 1009 (Ind. Ct. App. 2006) (citing *Henderson v. State*, 544 N.E.2d 507, 513 (Ind. 1989)), *overruled on other grounds by Heaton v. State*, 984 N.E.2d 614, 617 n.4 (Ind. 2013).² And a trial court may even rely on the facts contained in the probable cause affidavit in revoking probation where the affidavit bears substantial indicia of reliability. *Whatley*, 847 N.E.2d at 1010 (probable cause affidavit prepared and signed by a detective while under oath bore substantial indicia of reliability such that trial court did not err in taking judicial notice of it); *but see Baxter v. State*, 774 N.E.2d 1037, 1044 (Ind. Ct. App. 2002) (unverified law enforcement incident report did not bear substantial indicia of reliability), *trans. denied*; *c.f. Figures v. State*, 920 N.E.2d 267, 272 (Ind. Ct. App. 2010) (holding the trial court erred in admitting a probable cause affidavit where the court did not explain why it considered the affidavit substantially trustworthy, the State presented no evidence to corroborate the matters asserted therein, and the charges described in the affidavit had since been dismissed).

[14] We acknowledge there is supporting authority for taking judicial notice of a probable cause affidavit under certain circumstances. But here, it is unclear from the hearing transcript whether the trial court took judicial notice of the

² *Whatley* relied on an outdated standard of proof as to whether a probationer violated the conditions of his probation by committing a new criminal offense. See *id.* at 1010 (applying a probable cause standard rather than preponderance of the evidence). But *Whatley*'s holding that a trial court may take judicial notice of a probable cause affidavit has not—to our knowledge—been overruled.

mere existence of its records in Cause 28066 or of facts recited within the probable cause affidavit, including those perhaps not capable of ready and accurate determination. The State asked only that the trial court “take judicial notice of [Cause 28066]” and that “probable cause was found for [Anderson’s] arrest in that matter.” *Tr. Vol. 2* at 5. In closing arguments, the State relied primarily on the hearing testimony and referenced only one fact drawn from the probable cause affidavit: that “the detective also wrote into that probable cause affidavit that [Anderson] had that firearm.” *Id.* at 23. At the end of the hearing, the trial court noted it was taking notice of its own records, but referenced no specific facts contained within them in pronouncing its decision, much less why they bore substantial indicia of reliability. Accordingly, we decline to adopt the State’s approach of relying on facts contained within the probable cause affidavit in Cause 28066. We confine our review to only those facts we can ascertain were before the trial court: those presented at the probation revocation hearing.

The trial court did not abuse its discretion by admitting a hearsay statement made directly to the investigating officer.

[15] We turn now to Anderson’s argument that the trial court erroneously admitted hearsay testimony. Ordinarily, challenges to the admission of evidence are reviewed for abuse of trial court discretion. *Fansler v. State*, 100 N.E.3d 250, 253 (Ind. 2018). Accordingly, we review a trial court’s decision to admit or exclude evidence in a probation revocation proceeding for abuse of discretion. *See Votra v. State*, 121 N.E.3d 1108, 1113 (Ind. Ct. App. 2019). We will reverse only

where the trial court's decision is clearly against the logic and effect of the facts and circumstances. *Id.*

[16] Hearsay is an out-of-court statement offered in court for purposes of proving the truth of the matter asserted in the statement. Evid. R. 801. "Hearsay is not admissible unless it fits within some exception to the hearsay rule." *Craig v. State*, 630 N.E.2d 207, 209 (Ind. 1994); Evid. R. 802 (providing that hearsay is inadmissible); Evid. R. 803, Evid. R. 804 (collecting hearsay exceptions).

[17] But again, procedures in probation revocation proceedings are more flexible, and the rules of evidence in general—and the rules against hearsay in particular—do not apply. *Cox*, 706 N.E.2d at 550; Evid. R. 101(d)(2). In these hearings, trial courts "may consider any relevant evidence bearing some substantial indicia of reliability" including "reliable hearsay." *Cox*, 706 N.E.2d at 551. "This does not mean that hearsay evidence may be admitted willy-nilly in a probation revocation hearing." *Reyes v. State*, 868 N.E.2d 438, 440 (Ind. 2007). "In fact, the absence of strict evidentiary rules places particular importance on the fact-finding role of judges in assessing the weight, sufficiency and reliability of proffered evidence." *Cox*, 706 N.E.2d at 551. But all that is required to show the admissibility of the hearsay evidence is that it bears "substantial guarantees of trustworthiness." *Reyes*, 868 N.E.2d at 441.

[18] While we prefer a trial court explain on the record why the hearsay is reliable, and why that reliability is substantial enough to support good cause for not producing a live witness, a failure to do so is not fatal to the hearsay's

admission. *Id.* at 442. A trial court does not abuse its discretion in admitting hearsay evidence so long as the record adequately supports a finding that the hearsay is substantially trustworthy. *See id.* (affirming admission of affidavits in probation hearing despite trial court’s failure to provide detailed explanation on record).

[19] Here, Anderson objected to two hearsay statements: (1) the victim’s statement to CPD during the 9-1-1 call that he was kidnapped and held against his will, and (2) the victim’s statement to Detective Dobbs that he was held at gunpoint and Anderson “pulled a weapon and was waving [it] around the car[.]” *Tr. Vol. 2* at 6. As Anderson points out on appeal, in overruling his hearsay objections, the trial court did not explain why the hearsay statements bore substantial guarantees of trustworthiness, acknowledging only that “[i]t’s a probation matter.” *Id.* at 4.

[20] The State contends the victim’s statements are substantially trustworthy because they were made to a detective while he was investigating a reported crime, thus “exposing the victim to civil liability or prosecution for false reporting if he were to lie.” *Appellee’s Br.* at 13. The State also notes Detective Dobbs then corroborated “several aspects of the victim’s statement,” including by locating a small, black handgun in the car. *Id.*

[21] First, the statement in the 9-1-1 call presents multiple levels of hearsay: the victim’s statement made to dispatch, conveyed to CPD, and filtered again through Detective Dobbs. This Court has disapproved of a trial court relying

on “triple hearsay” in finding a probation violation, especially where the trial court failed to explain “why hearsay within hearsay within hearsay was reliable or why any reliability was substantial enough to support good cause for not producing a live witness.” *Mateyko v. State*, 901 N.E.2d 554, 558 (Ind. Ct. App. 2009) (holding the defendant on appeal established at least a case of *prima facie* error), *trans. denied*; *see also Robinson v. State*, 955 N.E.2d 228, 233 (Ind. Ct. App. 2011) (holding the trial court abused its discretion by admitting in a probation revocation proceeding a probable cause affidavit containing multiple levels of hearsay). With no explanation for why the trial court found the “triple hearsay” statement in this case reliable, we conclude the court abused its discretion in admitting the victim’s statement made on the 9-1-1 call for the truth of the matter asserted.

[22] But we agree with the State that the trustworthiness of the victim’s statement made directly to Detective Dobbs—that Anderson held him at gunpoint and was waving a gun around in the car—is evident from the circumstances. Detective Dobbs was an investigating officer responding to an apparent crime scene. The detective testified he spoke directly to the victim. As the State points out, witnesses who lie to police officers could be held responsible for false reporting. This lends credence to the victim’s statement such that the trial court could have concluded it was substantially trustworthy. *See, e.g., Nicasio v. State*, No. 18A-CR-960, 2018 WL 6815017, at *3 (Ind. Ct. App. Dec. 27, 2018) (mem.) (observing a police officer’s testimony that he was dispatched to investigate a battery and victims’ hearsay statement that the probationer

battered them was substantially trustworthy, in part because witnesses who lie to police officers could be held responsible for false reporting). Detective Dobbs then obtained a warrant to search the car, where he found a firearm. This corroborating evidence bolsters the reliability of the hearsay statement. *See id.* (noting the police officer directly observed the victims' injuries, which corroborated their battery report). The trial court did not abuse its discretion in admitting the victim's statement to Detective Dobbs.

- [23] Although the trial court abused its discretion as to the 9-1-1 call, errors in the admission of evidence are disregarded as harmless unless they affect the substantial rights of a party. *McClain v. State*, 675 N.E.2d 329, 331 (Ind. 1996). “Admission of hearsay evidence is not grounds for reversal where it is merely cumulative of other evidence admitted.” *Id.* at 331–32. And evidence is cumulative “if it supports a fact established by existing evidence and is of the same kind or character as the previously admitted evidence.” *Richardson v. State*, 189 N.E.3d 629, 636 (Ind. Ct. App. 2022). The victim's statement on the 9-1-1 call that he was kidnapped and held against his will was cumulative of the victim's statement to Detective Dobbs that Anderson was holding him at gunpoint. Accordingly, the trial court's erroneous admission of the first hearsay statement was harmless error.

Sufficient evidence supports revoking Anderson's probation.

- [24] Anderson next argues there was insufficient evidence to revoke Anderson's probation. When the sufficiency of the evidence to support probation

revocation is at issue, we consider the evidence most favorable to the trial court's judgment without reweighing the evidence or judging the credibility of witnesses. *Murdock v. State*, 10 N.E.3d 1265, 1267 (Ind. 2014). If there is substantial evidence of probative value to support the trial court's decision that the defendant violated any terms of probation, we will affirm the court's decision to revoke it. *Id.*

[25] Probation is a matter of grace, not a right to which a criminal defendant is entitled. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). A probation hearing is civil in nature, and the State must prove the alleged violations by a preponderance of the evidence. *Cox*, 706 N.E.2d at 551; I.C. § 35-38-2-3(f) (2015). Probation is a two-step process: first, the trial court must make a factual determination that a violation of a probation condition occurred; second, if a violation occurred, the court must determine the appropriate sanction. *Heaton*, 984 N.E.2d at 616. Probation may be revoked on evidence of violation of a single probationary condition. *Id.* at 618.

[26] Where the alleged probation violation is the commission of a new offense, the State need not show the probationer was *convicted* of a new crime. *See id.* at 616. At the same time, “neither an arrest nor the filing of criminal charges alone is enough to warrant probation revocation.” *Mosley v. State*, 171 N.E.3d 1031, 1033 (Ind. Ct. App. 2021), *trans. denied*. Rather, the State must establish by a preponderance of the evidence that the accused has committed a new offense. *Heaton*, 984 N.E.2d at 617. Where the alleged probation violation is the possession of contraband, the State may establish a violation by actual or

constructive possession. *See Monroe v. State*, 899 N.E.2d 688, 692 (Ind. Ct. App. 2009) (revocation of community corrections placement due to constructive possession of a handgun).

[27] Here, Anderson held a victim at gunpoint and pulled a weapon and waved it around the car while driving. After police officers responded to the scene, they retrieved a handgun from the vehicle. At the time, Anderson was on probation for Level 5 felony unlawful carrying of a firearm. This was sufficient evidence from which the trial court could conclude, by a preponderance of the evidence, Anderson (1) committed the new offense of unlawful carrying of a firearm with a prior felony conviction and/or (2) possessed a firearm. As such, there was sufficient evidence to support revoking Anderson's probation.

Conclusion

[28] Although the trial court abused its discretion in admitting the triple hearsay statement made on the 9-1-1 call, the trial court did not abuse its discretion in admitting the hearsay statement made directly to the investigating officer. Even without considering the facts contained in the Cause 28066 probable cause affidavit or the hearsay statement made on the 9-1-1 call, there was sufficient evidence to support the trial court's revocation of Anderson's probation.

[29] Affirmed.

Foley, J., and Scheele, J., concur.

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