

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.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

Miranda Means,
Appellant / Defendant,

v.

State of Indiana,
Appellee / Plaintiff



April 4, 2025

Court of Appeals Case No.
24A-CR-2022¹

Appeal from the Wayne Superior Court
The Honorable Gregory A. Horn, Judge

¹ On February 26, 2025, Means's appeal in cause number 24A-CR-2023 was consolidated into this cause number by order of this court.

Memorandum Decision by Judge Bradford

Judges Pyle and Kenworthy concur.

Bradford, Judge.

Case Summary

[1] In 2021, Miranda Means pled guilty, in cause number 89D02-2104-F5-45 (“Cause No. 45”), to several offenses, and the trial court sentenced her to a period of home detention to be followed by probation. In 2022, the State petitioned to have Means’s probation revoked for having violated several of its terms. In May of 2024, Means was found to be in possession of illegal drugs and drug paraphernalia and attempted to flee from police, which led to charges of Level 5 felony escape, Level 6 felony cocaine possession, Class A misdemeanor possession of a controlled substance, and Class A misdemeanor resisting law enforcement, as well as an allegation that she was a habitual offender, in cause number 89D02-2403-F5-24 (“Cause No. 24”). In July of 2024, Means pled guilty as charged in Cause No. 24 and admitted to having violated the terms of her probation in Cause No. 45. The trial court sentenced Means to an aggregate term of eight years of incarceration in Cause No. 24, revoked 440 days of her previously-suspended sentence in Cause No. 45, and ordered that the two terms be served consecutively. In this consolidated appeal,

Means contends that the trial court abused its discretion in sentencing her in Cause No. 24 and in ordering her to serve a portion of her previously-suspended sentence in Cause No. 45. We affirm.

Facts and Procedural History

- [2] In 2021, Means pled guilty in Cause No. 45 to two counts of Level 5 felony dealing in a narcotic drug and Level 6 felony unlawful possession of a syringe, and the trial court sentenced her to an aggregate term of three years of incarceration, all suspended to probation with the first one and one-half years to be served on home detention. On September 14, 2022, the State petitioned to revoke Means’s probation on the grounds that she had taken ten unauthorized trips, failed to report to the probation office as directed, and illegally used a controlled substance. On December 21, 2023, Means failed to appear for a hearing in Cause No. 45, and a warrant was issued for her arrest.
- [3] On March 2, 2024, Wayne County Sheriff’s Deputy Ryan Riggs was near the corner of South 13th Street and South G Street in Richmond when he observed what appeared to be a “domestic issue” between Means and a man. Cause No. 24 Appellant’s App. Vol. II p. 20. Means and another woman drove off, but Deputy Riggs stopped Means when she turned without signaling. Means claimed that she did not have identification and falsely identified herself as “Jamie Ullery[.]” Cause No. 24 Appellant’s App. Vol. II p. 20. The passenger identified herself as Kristal Barker-Benson. As another deputy attempted to verify the identities of the two women, Deputy Riggs used his K9 to conduct an open-air dog sniff around the car.

- [4] After his dog alerted near the front passenger door, Deputy Riggs had Means exit the car and placed her in handcuffs. Deputy Riggs found crack cocaine in Means's pocket and, in the car, found more crack cocaine; marijuana; six pills of Clonazepam; gold digital scales with cocaine residue on it; and, in Barker-Benson's purse, a device used to smoke crack cocaine.
- [5] Deputy Riggs also learned at some point that there was an outstanding arrest warrant for Means. When Means attempted to flee on foot, Deputy Riggs followed and told her to stop running, which she did not do. When Deputy Riggs caught Means, he tackled her, and she "tried to tuck her arms under her body to resist being placed in custody." Cause No. 24 Appellant's App. Vol. II p. 21.
- [6] On March 5, 2024, in Cause No. 24, the State charged Means with Level 5 felony escape, Level 6 felony cocaine possession, Class A misdemeanor possession of a controlled substance, and Class A misdemeanor resisting law enforcement and alleged that she was a habitual offender. On July 30, 2024, Means pled guilty as charged in Cause No. 24 and admitted to having violated the terms of probation in Cause No. 45.
- [7] On August 5, 2024, the trial court held a combined sentencing hearing in Cause No. 24 and dispositional hearing in Cause No. 45. In Cause No. 24, the trial court sentenced Means to an aggregate term of four years of incarceration, enhanced by four years as a result of her status as a habitual offender. In Cause No. 45, the trial court ordered Means to serve 440 days of her previously-suspended sentence, to be served consecutively to her sentence in Cause No. 24.

Discussion and Decision

I. Sentence in Cause No. 24

[8] Means contends that the trial court abused its discretion in sentencing her to eight years of incarceration in Cause No. 24.² Sentencing decisions “rest within the sound discretion of the trial court”; therefore, we look “only for an abuse of discretion.” *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh’g by Anglemyer v. State*, 875 N.E.2d 218 (2007). In general, a trial court abuses its discretion when it makes a decision “that is ‘clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.’” *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006) (quoting *In re L.J.M.*, 473 N.E.2d 637, 640 (Ind. Ct. App. 1985)).

[9] In the sentencing context, a trial court abuses its discretion when it (1) fails to enter a sentencing statement; (2) enters a sentencing statement that explains the reasons for the sentence, but the record fails to support those reasons; (3) omits reasons that are clearly supported by the record and advanced for consideration; or (4) gives reasons that are improper as a matter of law. *Anglemyer*, 868 N.E.2d at 490–91. The trial court must provide a statement of reasons for a sentence if it finds aggravating or mitigating circumstances. Ind. Code § 35-38-1-3. A trial court, however, is not required to find mitigating circumstances or

² Means mentions Indiana Rule of Appellate Procedure 7(B) and states that her sentence is inappropriately harsh but fails to make any argument whatsoever regarding the nature of her offenses or her character. Because Means has failed to make a cogent argument in this regard, we address it no further. *See* Appellate Rule 46(A)(8)(a).

explain why it did not find a circumstance to be significantly mitigating. *See, e.g., Fugate v. State*, 608 N.E.2d 1370, 1374 (Ind. 1993) (“If the trial court does not find the existence of a mitigating factor after it has been argued by counsel, the trial court is not obligated to explain why it has found that the factor does not exist.”). When trial courts find aggravating and mitigating circumstances, they cannot be said to have abused their “discretion in failing to ‘properly weigh’ such factors.” *Anglemyer*, 868 N.E.2d at 491 (quoting *Jackson v. State*, 728 N.E.2d 147, 155 (Ind. 2000)).

[10] The trial court found Means’s criminal history, the fact that she had violated the terms of her probation in Cause No. 45 by committing her offenses in Cause No. 24, and her history of dishonesty in Cause No. 24 to be aggravating circumstances. The trial court found Means’s history with depression and “perhaps other mental health issues[,]” that she “has suffered from addiction issues and relapsed while on probation,” and the fact that she had pled guilty without the benefit of a plea agreement to be mitigating. Tr. Vol. II p. 5. The trial court determined that the aggravating circumstances outweighed the mitigating.

[11] Means contends only that the trial court abused its discretion in failing to find her attempts at sobriety and work as a recovery coach to be mitigating circumstances. As the State points out, however, because there is no indication that Means advanced either one of these circumstances as mitigating in the trial court, she has waived them for appellate review. *See, e.g., McMahon v. State*, 856 N.E.2d 743, 751 (Ind. Ct. App. 2006) (concluding that claimed mitigating

circumstances were waived because they had not been raised in the trial court) (citing *Pennington v. State*, 821 N.E.2d 899, 905 (Ind. Ct. App. 2005)).

[12] In any event, Means has failed to establish that either of her proffered mitigating circumstances is clearly supported by the record. “An allegation that the trial court failed to identify or find a mitigating factor requires the defendant to establish that the mitigating evidence is both significant and clearly supported by the record.” *Anglemyer*, 868 N.E.2d at 493 (citations omitted). This argument seems to mostly be based on Means’s statement to her probation officer during preparation of her presentence investigation report that she had been sober for five years prior to a relapse shortly before her arrest in Cause No. 24. The trial court, however, was under no obligation to credit this otherwise-unsubstantiated claim, and, even if we assume it to be true, we cannot say that the record clearly supports a finding that those efforts were mitigating in light of their clearly-evident failure. As for Means’s claim that her work as a recovery coach should be considered mitigating, the record contains insufficient detail to clearly support such a determination. Means reported only that she had worked as a recovery coach from 2020 to 2023, but she provided no information regarding the actual nature of her work, her work schedule, or whether her work had actually helped anyone. Means has failed to establish that the trial court abused its discretion in sentencing her in Cause No. 24.

II. Probation Revocation in Cause No. 45

[13] Means also contends that the trial court abused its discretion in ordering her to serve 440 days of her previously-suspended sentence in Cause No. 45.

Revocation of placement in probation is a two-step process. *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008). First, there must be a factual determination that a violation of a condition of probation occurred. *Id.* Here, Means admitted that she had violated several terms of her probation. Second, “the trial court must determine if the violation warrants revocation of the probation.” *Id.* “Proof of a single violation is sufficient to permit a trial court to revoke probation.” *Killebrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021) (citation omitted), *trans. denied*. “As long as the proper procedures have been followed in conducting a probation revocation hearing, the trial court may order execution of a suspended sentence upon a finding of a violation by a preponderance of the evidence.” *Wilkerson v. State*, 918 N.E.2d 458, 464 (Ind. Ct. App. 2009) (citation and quotation marks omitted); *see also* Ind. Code § 35-38-2-3(h) (providing that a trial court may order “execution of all or part of the sentence that was suspended at the time of initial sentencing”).

- [14] Means seems to be arguing, without citing any authority, that the trial court was required to find the same mitigating circumstances with respect to her probation in this case as it found in Cause No. 24, as well as finding the additional ones she advanced in appealing the sentence in that case. The trial court, however, was not required to find *any* mitigating circumstances, nor, for that matter, any aggravating circumstances. *See, e.g., Killebrew*, 165 N.E.3d at 582 (“Killebrew maintains that the trial court failed to say anything about his progress when imposing sentence, but the trial court was not required to do so and was not required to balance mitigating and aggravating circumstances.”).

The fact that the trial court did not identify aggravating or mitigating circumstances in determining the sanction for Means's admitted violation of the terms of probation is inconsequential. Means points to nothing beyond the trial court's failure to consider aggravating and mitigating circumstances to support her argument on this point, so we need discuss it no further, other than to say that Means admitted to violating the terms of her probation, which is sufficient to support a revocation of some or all of her previously-suspended sentence.³

[15] We affirm the judgment of the trial court.

Pyle, J., and Kenworthy, J., concur.

ATTORNEY FOR APPELLANT

Rebecca Berfanger
RJ Berfanger Law LLC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Samuel J. Dayton
Deputy Attorney General
Indianapolis, Indiana

³ To the extent that Means might be said to be arguing that her attempts at sobriety and work as an addiction counselor are bases on which the trial court should have shown her mercy in Cause No. 45, we reject that argument on the grounds mentioned in our review of her sentence in Cause No. 24.