

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Jacinda A. Batchelor,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

July 31, 2023

Court of Appeals Case No.  
23A-CR-512

Appeal from the Fountain Circuit  
Court

The Honorable Stephanie  
Campbell, Judge

Trial Court Cause No.  
23C01-2012-F6-455

**Memorandum Decision by Judge Brown**  
Judge Crone and Senior Judge Robb concur.

**Brown, Judge.**

[1] Jacinda A. Batchelor appeals the revocation of her probation. We affirm.

***Facts and Procedural History***

[2] In December 2020, the State charged Batchelor with Count I, possession of methamphetamine as a level 6 felony; Count II, possession of a controlled substance as a class A misdemeanor; Count III, theft as a class A misdemeanor; and Count IV, possession of marijuana as a class B misdemeanor. In February 2022, Batchelor pled guilty pursuant to a plea agreement to Counts I, II, and IV, the State dismissed Count III, and the court sentenced her to a total of 730 days. On July 26, 2022, the State filed a petition to revoke probation. On September 29, 2022, the court held a hearing at which Batchelor admitted to a violation. The court revoked 146 days of Batchelor’s previously suspended sentence and ordered that she “shall be released back to probation and to report to Next Step on Oct 18, 2022” and that her probation terms were modified to include that she shall “enroll in Next Step upon release on Oct 18, 2022[,] completing [at] least 90 days or more if recommended by Next Step” and “notify probation of any violations or discharge [at] Next Step immediately.” Appellant’s Appendix Volume II at 27.

[3] On October 18, 2022, Batchelor reported to Next Step, submitted to a drug screen as a part of intake, and tested positive for methamphetamine. On or about October 24, 2022, Batchelor was arrested in Putnam County for which she was charged with criminal trespass and resisting law enforcement as class A

misdemeanors under cause number 67D01-2210-CM-890 (“Cause No. 890”). On October 31, 2022, the State filed a petition to revoke probation alleging that Batchelor failed to enroll or complete Next Step, consumed methamphetamine during the period of supervision as evidenced by a screen collected at the time of her attempted admission to Next Step, and committed the new criminal offenses of trespass and resisting law enforcement.

[4] On February 6, 2023, the court held a hearing and took notice of the charges against Batchelor for trespass and resisting law enforcement in Cause No. 890. Caitlynn Hooten, Batchelor’s probation officer, testified that she received an email from Batchelor on October 19, 2022, stating that Next Step did not accept her because she was not an active addict and that she was going to Hickory Treatment Center for an assessment and treatment. Hooten indicated she also received the drug screen results from Next Step and an email from Next Step indicating that it was not taking Batchelor into its services. Hooten also indicated that she sent a reply to Batchelor stating: “We have confirmation that you failed your initial drug screen yesterday. That is, in fact, why you weren’t accepted into their program.” Transcript Volume II at 27. She indicated that Batchelor did not make any contact with her after October 19, 2022. She also indicated that she did not receive any further communication from Next Step or any information from Hickory that Batchelor was enrolled in its program.

[5] Batchelor testified “not only did [Next Step] deny me because I didn’t have an active addiction but they also denied me because they claimed that I failed a drug screen” and “they automatically denied me before I even stepped foot in

that office and I felt it.” *Id.* at 30. She testified “I took a drug screen and I dropped it in the toilet.” *Id.* She stated “they said it tested positive for meth,” “I was like I don’t know how it’s testing positive for meth,” “I’m not on meth,” “I was like I’m not gonna sit here and argue with you guys any more,” and “I got accepted into Hickory Treatment and then that’s where I was going to go.” *Id.* at 32. She indicated she contacted Hickory every day regarding bed availability until she was arrested. She further indicated she was released from jail on October 15, 2022, and was at a Motel 6 between October 15, 2022, and October 18, 2022. The court found that Batchelor violated the terms of her probation by failing to complete the required treatment program as ordered and revoked the remaining balance of her previously suspended sentence.

### ***Discussion***

[6] Batchelor asserts the trial court abused its discretion in finding that she violated the terms of her probation. She argues her “non-enrollment in the Next Step program was a mere technical violation of the probation.” Appellant’s Brief at 8. She asserts the condition that she enroll in Next Step became an impossibility because her admission was denied. She also argues that she called Hickory Treatment Center daily and that, “[i]n the totality of the circumstances, it seems that [she] did everything possible to abide by the probation requirements.” *Id.* at 9.

[7] Ind. Code § 35-38-2-3(h) provides:

If the court finds that the person has violated a condition 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:

- (1) Continue the person on probation, with or without modifying or enlarging the conditions.
- (2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.
- (3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

[8] We review trial court probation violation determinations and sanctions for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013) (citing *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). The Indiana Supreme Court has explained that “[o]nce a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed” and that, “[i]f this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” *Prewitt*, 878 N.E.2d at 188. When reviewing an appeal from the revocation of probation, we consider only the evidence most favorable to the judgment, and we will not reweigh the evidence or judge the credibility of the witnesses. *Vernon v. State*, 903 N.E.2d 533, 536 (Ind. Ct. App. 2009), *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. *Goonen v. State*, 705 N.E.2d 209, 212 (Ind. Ct. App. 1999).

[9] The record reveals that the court ordered Batchelor to report to Next Step on October 18, 2022 and complete at least ninety days, she was released from jail on October 15, 2022, she reported to Next Step on October 18, 2022 and submitted to a drug screen, she tested positive for methamphetamine, and she was not accepted at Next Step. In light of the record, we cannot say the trial court abused its discretion in revoking Batchelor's probation and ordering that she serve the remainder of her previously suspended sentence.

[10] For the foregoing reasons, we affirm the trial court's order.

[11] Affirmed.

Crone, J., and Robb, Sr.J., concur.