

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Max William Condra,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

June 14, 2023

Court of Appeals Case No.
22A-CR-2727

Appeal from the Tippecanoe
Superior Court

The Honorable Steven P. Meyer,
Judge

Trial Court Cause No.
79D02-1607-F3-24

Memorandum Decision by Chief Judge Altice
Judges May and Foley concur.

Altice, Chief Judge.

Case Summary

[1] Max William Condra appeals the trial court's order to revoke his probation, arguing that the trial court abused its discretion in ordering him to complete his sentence in the Indiana Department of Correction (the DOC).

[2] We affirm.

Facts and Procedural History

[3] On July 15, 2016, the State charged Condra with Level 5 felony possession of methamphetamine, Level 4 felony conspiracy to commit dealing in methamphetamine, Level 5 felony carrying a handgun without a license, Level 6 felony possession of a controlled substance, Level 6 felony of unlawful possession of a syringe, and a Class C misdemeanor possession of paraphernalia. Thereafter, on September 28, 2016, Condra pleaded guilty to Level 4 felony conspiracy to commit dealing in methamphetamine, Level 5 felony carrying a handgun without a license, and Level 6 felony possession of a controlled substance. On November 3, 2016, Condra was sentenced to an aggregate eight years with four years executed in the DOC, two years on community corrections, and two years on probation.

[4] In August 2019, Condra was released from the DOC to a Community Transition Program (CTP). While in CTP, Condra committed seven violations that were handled internally. In January 2020, Condra began serving the

community corrections portion of his sentence. In July 2022, the State filed a petition to revoke Condra's probation, alleging that he had failed to report to probation, failed to submit to drug screens, failed to report an address change, and committed new crimes, including resisting law enforcement, possession of a controlled substance, and possession of paraphernalia.

[5] On November 4, 2022, Condra admitted that he violated the terms of his probation. Despite Condra's request to remain on probation for the duration of his sentence, the trial court revoked his probation and ordered him to serve two years in the DOC. Condra now appeals.

Discussion and Decision

[6] Condra contends that the trial court abused its discretion when it revoked his probation and ordered him to serve two years in the DOC. Condra argues that because he was a participant in a substance abuse program and because he secured employment prior to his admission hearing, the trial court should have allowed him to remain on probation despite his violations.

[7] Probation is "a matter of grace left to the trial court's discretion, not a right to which a criminal defendant is entitled." *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). An abuse of discretion occurs only when the trial court's 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).

[8] Indiana Code § 35-28-2-3(h) provides:

When a violation of probation is found the court may: (1) continue the person on probation with or without modifying or enlarging conditions, (2) extend the person's probationary period for not more than one year beyond the original probationary period, or (3) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

To revoke probation the trial court must (1) make a factual determination that a violation has occurred, and then (2) decide if revocation is appropriate. *Sanders v. State*, 825 N.E.2d 952, 955 (Ind. Ct. App. 2005).

[9] Condra admitted that he violated his probation by failing to report to probation, failing to submit to drug screens, and failing to maintain good and lawful behavior by committing new crimes. Thus, the only question is whether it was an abuse of the trial court's discretion to revoke Condra's probation based on these violations and order him to serve the balance of his sentence in the DOC.

[10] During sentencing the trial court noted that Condra has had issues with illegal activities, including drug use for some time. It is evident from the record that he has been given considerable leniency throughout his several years in and out of incarceration. The trial court noted that he was provided with opportunities to utilize drug abuse diversion programs through every step of his sentence and yet he continues to display poor behavior with respect to the law. Despite Condra's recent participation in a substance abuse program and the fact that he had secured a job, his history is more telling. On this record, we find that the trial court did not abuse its discretion in sentencing Condra to serve his remaining two years in the DOC.

[11] We affirm.

May, J. and Foley, J., concur.