

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Joseph J. Roth-Bradley,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 18, 2023

Court of Appeals Case No.
23A-CR-1117

Appeal from the Allen Superior
Court

The Honorable Frances C. Gull,
Judge

The Honorable Samuel R. Keirns,
Magistrate

Trial Court Cause No.
02D05-1809-F3-61

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

- [1] Joseph Roth-Bradley appeals the trial court’s revocation of his placement on probation. Roth-Bradley raises one issue for our review, namely, whether the court violated his due process rights when it revoked his probation without having made a specific determination that revocation of his placement was warranted. We affirm.

Facts and Procedural History

- [2] Roth-Bradley and K.H. share a child together. In August 2018, Roth-Bradley “held [K.H.] at gunpoint” and took an iPhone from her. Tr. at 17. As a result, the State charged Roth-Bradley with criminal confinement, as a Level 3 felony (Count 1);¹ criminal confinement, as a Level 5 felony (Count 2);² and criminal conversion, as a Class A misdemeanor (Count 3).³ The court also issued a no-contact order prohibiting Roth-Bradley from contacting K.H. See Ex. at 4-5.
- [3] Thereafter, Roth-Bradley and the State entered into a plea agreement. Pursuant to that agreement, Roth-Bradley agreed to plead guilty to Counts 1 and 3 in

¹ Ind. Code § 35-42-3-3(b)(3).

² I.C. § 35-42-3-3(b)(1).

³ I.C. § 35-43-4-3(a).

exchange for the State agreeing to have Count 2 dismissed. The parties also agreed that sentencing would be open to the trial court but that any executed sentence would be at least three years but no more than six years. The court accepted Roth-Bradley's guilty plea, entered judgment of conviction, and sentenced him to an aggregate term of nine years, with six years executed in the Department of Correction and three years suspended to probation. As a condition of his probation, Roth-Bradley was ordered to "behave well" and to abide by the no contact order. Appellant's App. Vol. 2 at 93 (emphasis removed).

[4] Roth-Bradley began serving his term of probation on February 16, 2023. When K.H learned that Roth-Bradley was being released to probation, she checked the GTL network, which is messaging system that allows individuals to message people who are incarcerated. K.H. noticed that Roth-Bradley had been messaging her for three years. Between December 2022 and February 2023, Roth-Bradley sent K.H. at least three messages through the GTL network. On February 21, K.H. contacted Bluffton Polie Officer Benjamin Griner and reported "that a protective order had been violated." Tr. at 39.

[5] On February 23, the State filed a petition to revoke Roth-Bradley's placement on probation. In particular, the State alleged that Roth-Bradley had committed three counts of invasion of privacy and that he had "violated the no-contact order issued as a condition of probation[.]" Appellant's App. Vol. 2 at 36. The court held a fact-finding hearing on the State's petition on April 17, 2023. At the conclusion of the hearing, the court found that "the State has met its burden

in proving by a preponderance of the evidence the defendant violated the terms and conditions of probation as contained in the Petition with respect to” the violation of the no-contact order but not with respect to the allegations of invasion of privacy. Tr. at 50. The court then revoked the entirety of Roth-Bradley’s suspended sentence and ordered him to serve three years in the Department of Correction. This appeal ensued.

Discussion and Decision

- [6] Roth-Bradley appeals the trial court’s revocation of his placement on probation. As our Supreme Court has explained:

“Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). It is within the discretion of the trial court to determine probation conditions and to revoke probation if the conditions are violated. *Id.*

Heaton v. State, 984 N.E.2d 614, 616 (Ind. 2013). Further, “probation revocation is a two-step process. First, the court must make a factual determination that a violation of a condition of probation actually occurred. If a violation is proven, then the trial court must determine if the violation warrants revocation of the probation.” *Parker v. State*, 676 N.E.2d 1083, 1086 (Ind. Ct. App. 1997) (citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)).

- [7] On appeal, Roth-Bradley concedes that “the trial court satisfied the first step in the two-step revocation process.” Appellant’s Br. at 9. However, he contends

that the court violated his due process rights when it sanctioned him without having made a specific determination that the violation warranted a revocation of his placement. According to Roth-Bradley, “the trial court moved directly from determining that a violation had occurred to revoking [his] probation and sentencing him,” which “wholly ignore[d] the requirement that there be a finding that revocation of probation is warranted.” *Id.* at 10. And he maintains that “[d]ue process requires some level of a determination by the judge, based on the facts and circumstances, that revocation is appropriate and warranted.” *Id.*

[8] However, our Court has outlined the “minimum requirements of due process” for a probationer to include:

“(a) written notice of the claimed violations of [probation]; (b) disclosure to the [probationer] of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a ‘neutral and detached’ hearing body . . . ; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking [probation].”

Parker, 676 N.E.2d at 1087 (quoting *Morrissey*, 480 U.S. at 489).

[9] Contrary to Roth-Bradley’s assertions, there is no due process requirement for a court to make an explicit finding that the probation violation warrants the revocation of the defendant’s placement on probation. Rather, it is implicit in the court’s order revoking Roth-Bradley’s previously suspended sentence that

the court determined that his violations warranted a revocation of his placement.

[10] Further, the trial court did not deny Bradley any of the due process rights as outlined in *Morrissey*. Indeed, Roth-Bradley makes no argument that he did not receive written notice of the violation, that the State did not disclose the evidence against him, that he was denied an opportunity to be heard, that he was denied the right to confront witnesses, or that he did not have a neutral hearing body. To the extent his argument can be construed as asserting that the court did not issue a written statement, the court issued a written order in which it found “by a preponderance of evidence that the defendant violated the terms and conditions of probation as contained in allegation two (2) of the petition” and then revoked the entirety of his previously suspended sentence. Appellant’s App. Vol. 2 at 32. As such, the court did not violate Roth-Bradley’s due process rights when it revoked his placement on probation.

Conclusion

[11] The court did not violate Roth-Bradley’s due process rights when it revoked his placement on probation. We therefore affirm the trial court.

[12] Affirmed.

May, J., and Felix, J., concur.