

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Christopher Garriott,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 23, 2023

Court of Appeals Case No.
22A-CR-2411

Appeal from the Warren Circuit
Court

The Honorable Hunter Reece,
Judge

Trial Court Cause No.
86C01-1703-F4-17
86C01-1909-CM-182

Memorandum Decision by Judge Kenworthy
Judges Robb and Crone concur.

Kenworthy, Judge.

Case Summary

- [1] Christopher Garriott appeals the trial court's order revoking his probation and ordering him to serve the entirety of his previously suspended sentence in the Indiana Department of Correction ("DOC"). He raises one issue for our review: Did the trial court abuse its discretion by ordering him to serve his entire sentence? Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

- [2] In early 2018, Garriott pleaded guilty to unlawful possession of a firearm by a serious violent felon, a Level 4 felony. The trial court sentenced Garriott to an aggregate sentence of nine years: four years in the DOC, and five years suspended to probation. After completing courses in the Recovery While Incarcerated Program, Garriott moved to modify his sentence. On May 31, 2019, the trial court granted Garriott's motion to modify his sentence, ordering Garriott to serve the remainder of his sentence (2,498 days) on probation.
- [3] On October 1, 2019, the probation department filed a petition to revoke Garriott's probation. Garriott admitted to violating the terms of his probation by committing Class A misdemeanor domestic battery. The trial court continued Garriott on probation without changing the probation conditions.

[4] On July 22, 2021, the probation department filed a second petition to revoke Garriott's probation, alleging Garriott had violated the terms of his probation by committing the new criminal offenses of Class A misdemeanor possession of a controlled substance, Class A misdemeanor possession of paraphernalia with a prior conviction, and Class C misdemeanor possession of paraphernalia. In December, the probation department filed an amended petition and alleged Garriott had also violated the terms of his probation by testing positive for methamphetamine. Garriott "quit reporting" after the second petition was filed and "took off" to Georgia, where he was arrested for possession of methamphetamine. *Tr. Vol. 2* at 21. He returned to Indiana on March 23, 2022.

[5] At a hearing on May 4, 2022, Garriott admitted to the allegations in the petition to revoke his probation. The trial court scheduled a dispositional hearing for July 6, 2022, and in the interim released Garriott from the Warren County Jail so Garriott could complete the sober living program at Club Soda in Terre Haute, Indiana. Garriott began inpatient treatment at Club Soda on May 12, 2022, where he was gainfully employed, attended daily NA/AA meetings, and did his service hours, chores, and daily readings. However, Club Soda dismissed Garriott on August 15, 2022, after he violated curfew and tested positive for marijuana.

[6] At the dispositional hearing, the trial court ordered Garriott to serve the entirety of his suspended sentence in the DOC because he admitted to committing

“multiple new crimes” and absconded to Georgia while on probation. *Tr. Vol. 2* at 37.

Discussion and Decision

1. Standard of Review

[7] Probation is a matter of grace, not a right to which a criminal defendant is entitled. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). The trial court has discretion to determine probation conditions and to revoke probation if the conditions are violated. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). According to Indiana Code Section 35-38-2-3(h):

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.

Where—as here—the trial court imposed a sanction for violating the conditions of probation, we review for abuse of discretion. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). “An abuse of discretion occurs where the decision is clearly

against the logic and effect of the facts and circumstances, or when the trial court misinterprets the law.” *Heaton*, 984 N.E.2d at 616 (internal citation omitted).

2. Revocation of Probation

- [8] Garriott argues the trial court abused its discretion by revoking his probation and ordering him to serve the entirety of his previously suspended sentence in the DOC. Probation revocation is a two-step process. *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008). First, the court must make the factual determination a violation of a condition of probation occurred. *Id.* Second, if the State proves the violation, the trial court must determine if the violation warrants revocation. *Id.*
- [9] Garriott admitted to his probation violations, waiving his right to a probation revocation hearing. *Tr. Vol. 2* at 5-7. Therefore, the court could proceed to the second step of the inquiry and determine whether the violation warranted revocation. *Woods*, 892 N.E.2d at 640. “[T]he selection of an appropriate sanction will depend on the severity of the defendant’s probation violation[.]” *Heaton*, 984 N.E.2d at 618.
- [10] Here, Garriott contends the trial court abused its discretion by sanctioning him too severely. Focusing on evidence favorable to him, Garriott argues the trial court should have afforded more weight to what Garriott characterizes as his “substantial compliance with Club Soda.” *Appellant’s Br.* at 10.

[11] Although Garriott followed Club Soda's rules for a short time in 2022 after the probation violation petition was filed, the trial court previously gave Garriott ample opportunity to comply with the terms of his probation. The trial court released Garriott early from the DOC and placed him on probation. A few months later, Garriott violated the terms of his probation by committing domestic battery. The State moved to revoke Garriott's probation, but the trial court allowed him to continue probation without imposing any additional conditions. Then, Garriott tested positive for methamphetamine and committed the criminal offenses of possession of a controlled substance, possession of paraphernalia with a prior conviction, and possession of paraphernalia. After the State filed its second, amended petition to revoke Garriott's probation, Garriott failed to report—the most basic requirement of probation. Instead, he absconded to Georgia, where he was arrested and tested positive for methamphetamine. Even after Garriott absconded and failed to report, he was given the opportunity to participate in a sober living environment. Although he followed some of Club Soda's rules during his tenancy, he was ultimately discharged when he broke those rules. All in all, Garriott's continued criminal conduct and failure to respond to the grace repeatedly extended by the trial court warranted a fully executed sentence.

Conclusion

[12] The trial court was well within its discretion when it revoked Garriott's probation and ordered him to serve 2,498 days in the DOC. Accordingly, we affirm.

[13] Affirmed.

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