

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Maurice Johnson,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

February 24, 2021

Court of Appeals Case No.  
20A-CR-1687

Appeal from the  
Marion Superior Court

The Honorable  
Sheila Carlisle, Judge

Trial Court Cause No.  
49G03-1507-F4-26674

**Vaidik, Judge.**

## Case Summary

- [1] Maurice Johnson appeals the sanction imposed for his violation of probation. We affirm.

## Facts and Procedural History

- [2] In July 2015, the State charged Johnson with Level 4 felony burglary, Level 6 felony theft, Level 6 felony resisting law enforcement, and Class A misdemeanor resisting law enforcement. In November 2015, Johnson and the State entered into a plea agreement under which Johnson would plead guilty to Level 4 felony burglary and Level 6 felony resisting law enforcement and admit to violating his probation in another case. In exchange, the State would dismiss the remaining charges in this case as well as all charges in a third case. The trial court, under the plea agreement, sentenced Johnson to eight years in this case, with four years in the Department of Correction, two years of community-corrections work release, and two years suspended to probation.
- [3] Johnson started his community-corrections placement at Duvall Residential Center in July 2017. Two months later, in September 2017, a notice of community-corrections violation was filed, alleging Johnson violated Duvall's rules regarding possession of a controlled, illegal, synthetic, or look-a-like substance. A couple days later, a notice of probation violation was filed based on Johnson's failure to comply with community corrections. Johnson admitted violating both community corrections and probation, and the trial court

imposed a sixty-day sanction at the DOC, ordered Johnson to continue his community-corrections placement, added substance-abuse evaluation and treatment as a condition of his community-corrections placement, and continued him on probation. Appellant's App. Vol. II p. 128.

[4] In January 2018, a second notice of community-corrections violation was filed, alleging Johnson tested positive for PCP in violation of Duvall's rules regarding possession and use of controlled substances. Johnson admitted violating community corrections, and the trial court revoked his placement and ordered him to serve four years—two years in the DOC and two years suspended to probation. *Id.* at 141. In addition, the court recommended that Johnson receive substance-abuse treatment in the DOC and said it would consider a “modification of placement” if he successfully completed treatment. *Id.*

[5] Johnson was released from the DOC and started probation on August 1, 2019. The next month, September 2019, a second notice of probation violation was filed, alleging Johnson failed to submit to a drug screen. About a week later, an amended notice was filed, alleging Johnson also failed to report to probation as directed. A hearing was set for October, but Johnson failed to appear, and a warrant was issued for his arrest. Johnson was not arrested on the warrant until August 2020—about ten months later.

[6] At a hearing in September 2020, Johnson admitted violating probation for failing to submit to a drug screen and report to probation. He also admitted he “went on the run” for about a year. Tr. p. 13. Johnson, who claimed he never

received substance-abuse treatment in the DOC because he never got off the “waiting list,” said he had been accepted into an inpatient substance-abuse program and asked to be placed there. *Id.* The trial court ruled:

[W]hat concerns the Court is the prior attempts to get you on track here. There’ve been many violations. There was a prior violation at Community Corrections. You were on strict compliance. So due to these things, the Court does revoke your probation and directs that you serve the suspended time, the two years, executed at the Department of Correction.

*Id.* at 16.

[7] Johnson now appeals.

## Discussion and Decision

[8] Johnson contends the trial court should not have ordered him to serve his two-year suspended sentence in the DOC. Trial courts enjoy broad discretion in determining the appropriate sanction for a probation violation, and we review only for an abuse of that discretion. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007).

[9] Johnson argues that “[b]ased on the minor, non-violent nature of the violations and [his] long-standing and untreated substance abuse,” we should reverse the trial court and “remand with instructions to place him on home detention with a condition that he receive inpatient substance abuse treatment.” Appellant’s Br. p. 9. But given the multiple chances Johnson has already been given in this

case, we find the court acted well within its discretion in ordering him to serve his two-year suspended sentence in the DOC. As the court explained, this was Johnson's second probation violation in this case. In addition, Johnson twice violated his community-corrections placement in this case. For the first violation of community corrections and probation, the court ordered Johnson to serve sixty days in the DOC. And when Johnson violated community corrections for the second time, the court revoked his placement and ordered him to serve two years in the DOC. Shortly after Johnson was released from the DOC in August 2019, he failed to submit to a drug screen and report to probation. He then "went on the run" for about a year. The court did not abuse its discretion in ordering Johnson to serve his two-year suspended sentence in the DOC.<sup>1</sup>

[10] Affirmed.

Brown, J., and Pyle, J., concur.

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<sup>1</sup> On appeal, Johnson cites *Ripps v. State*, 968 N.E.2d 323 (Ind. Ct. App. 2012), and *Johnson v. State*, 62 N.E.3d 1224 (Ind. Ct. App. 2016). Both cases are easily distinguishable. Among other reasons, Johnson has violated the conditions placed upon him multiple times in this case.