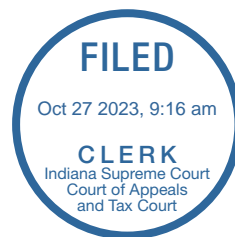


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Lisa Johnson
Brownsburg, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General

Catherine E. Brizzi
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Q.F.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

October 27, 2023

Court of Appeals Case No.
23A-JV-1385

Appeal from the Gibson Circuit
Court

The Honorable Jeffrey Fowler
Meade, Judge

Trial Court Cause No.
26C01-2203-JD-53

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

- [1] Q.F., a juvenile, appeals the trial court's revocation of his probation. Specifically, he contends that the State failed to present sufficient evidence to support the revocation of his probation. Finding the evidence sufficient, we affirm.

Facts and Procedural History

- [2] In March 2022, police officers were dispatched to Q.F.'s home based upon a report from his grandparents (his legal guardians) that he was using drugs and refusing to go to school. Officers found marijuana and a firearm in Q.F.'s bedroom.
- [3] On April 4, 2022, the State alleged that Q.F. committed offenses that, if committed by an adult, would constitute level 6 felony dealing in a controlled substance, level 6 felony theft of a firearm, class A misdemeanor resisting law enforcement, class B misdemeanor possession of marijuana, and class C misdemeanor possession of paraphernalia. The State further alleged that Q.F. committed class A misdemeanor dangerous possession of a firearm by a child.
- [4] In June 2022, Q.F. admitted to the allegations of dealing in a controlled substance, theft of a firearm, resisting law enforcement, possession of marijuana, and possession of paraphernalia. The trial court dismissed the dangerous possession of a firearm allegation upon the State's motion. A dispositional hearing was held in August 2022. The parties informed the trial court that they had agreed to a one-year suspended sentence in the Indiana

Boys School. The trial court accepted the agreement and adjudicated Q.F. a delinquent child, imposed the agreed-upon one-year suspended sentence, and placed Q.F. on formal probation. Q.F. was released to the custody of his grandparents.

[5] On October 6, 2022, the State filed a petition to revoke Q.F.'s probation alleging that he had violated the conditions of his probation by failing two drug screens and failing on at least eleven occasions to make his daily call to the testing facility as ordered. On December 14, 2022, Q.F. admitted to violating his probation. The trial court scheduled a sentencing hearing for December 21, 2022. Following that hearing, the trial court modified Q.F.'s sentence and ordered him to serve his suspended sentence at the Hillcrest Home in Evansville for residential substance abuse treatment. In March 2023, Q.F. tested positive for marijuana. A review hearing was held on May 5, 2023. A Hillcrest Home representative reported that Q.F. was still testing positive for marijuana but that his grades were improving. The trial court ordered that Q.F. remain at Hillcrest Home but ordered him to write a paper about the long-term effects of marijuana use.

[6] On May 17, 2023, the State filed a petition to revoke Q.F.'s probation alleging that Hillcrest Home had reported on May 16 that Q.F. was given a thirty-day notice of being removed from the program because he was continuing to use marijuana and he had violated Hillcrest Home's rules. A hearing was held on May 31. The State presented evidence that Hillcrest Home had reported that since the May 5 review hearing, Q.F. had continued to use marijuana and his

“behavior ha[d] taken a drastic change for the worse.” Tr. Vol. 2 at 129-30. His rule violations included entering a restricted area of the facility where contraband items were kept and taking his cell phone. Due to this behavior, the CEO of Hillcrest Home had requested Q.F.’s removal from the residential facility. At the conclusion of the hearing, the trial court revoked Q.F.’s suspended sentence and awarded wardship of Q.F. to the Indiana Boys School. This appeal ensued.

Discussion and Decision

[7] Q.F. challenges the sufficiency of the evidence to support the trial court’s revocation of his probation and modification of his disposition. “Where, as here, the State moves for modification of a dispositional decree, the probation officer must give notice to the persons affected and the juvenile court must hold a hearing.” *In re M.T.*, 928 N.E.2d 266, 269 (Ind. Ct. App. 2010) (citing Ind. Code § 31-37-22-3), *trans. denied*. “[A] trial court may not modify a juvenile’s disposition without a hearing at which the State presents evidence supporting the allegations listed in the revocation petition.” *Id.* at 271.

[8] We apply the same standards with respect to the revocation of probation for minors as we do for adults. *T.W. v. State*, 864 N.E.2d 361, 364 (Ind. Ct. App. 2007), *trans. denied*. “A probation revocation proceeding is in the nature of a civil proceeding, and, therefore, the alleged violation need be proved only by a preponderance of the evidence.” *Id.* “Violation of a single condition of probation is sufficient to revoke probation.” *Id.* “As with other sufficiency

issues, we do not reweigh the evidence or judge the credibility of witnesses.” *Id.* “We look only to the evidence which supports the judgment and any reasonable inferences flowing therefrom.” *Id.* “If there is substantial evidence of probative value to support the trial court’s decision that the probationer committed any violation, revocation of probation is appropriate.” *Id.*

[9] Q.F.’s sole assertion is that the “State did not prove by a preponderance of the evidence that [he] used marijuana during the relevant time period.” Appellant’s Br. at 8. Specifically, Q.F. argues that the State did not prove by a preponderance of the evidence that he “actually used marijuana” between the May 5, 2023 review hearing and when the State filed its second petition to revoke on May 17, 2023. *Id.* at 9.

[10] Contrary to Q.F.’s suggestion, the State was not required to tender such proof. Rather, the State’s second petition to revoke alleged that Q.F. violated the conditions of his probation both by continuing to use marijuana and by failing to abide by the rules of his placement at Hillcrest Home. During the revocation hearing held on May 31, 2023, although the State did not present specific evidence of Q.F.’s continued marijuana use, e.g., a positive drug screen, the State presented ample evidence that Q.F. failed to abide by the rules of his placement at Hillcrest Home and that, as a result of this behavior, he had been kicked out of that program. As noted above, violation of a single condition of probation is sufficient to support a revocation. Evidence that Q.F. violated the rules of Hillcrest Home and was removed from that placement was sufficient to

support the revocation of his probation and modification of his dispositional decree.¹

[11] Affirmed.

Riley, J., and Mathias, J., concur.

¹ Q.F. challenges only the sufficiency of the evidence to support the revocation of his probation. He does not specifically challenge his placement in the Indiana Boys School.