

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Natasha D. Hoffman,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff.

July 24, 2023

Court of Appeals Case No.
22A-CR-2241

Appeal from the
Jefferson Circuit Court

The Honorable
Richard G. Striegel, Senior Judge

Trial Court Case No.
39C01-1403-FA-217

Memorandum Decision by Senior Judge Shepard
Judges Vaidik and Kenworthy concur.

Shepard, Senior Judge.

[1] Natasha Hoffman¹ appeals the sanction the trial court imposed after it revoked the suspended portion of her sentence, arguing the court abused its discretion by failing to consider her mental health and substance abuse issues.² We disagree and affirm.

Facts and Procedural History

[2] On January 4, 2018, the trial court sentenced Hoffman to a six-year term of incarceration for her conviction of dealing in a schedule I, II, or III controlled substance, a Class B felony. Four of the six years were suspended to probation. Hoffman immediately served the executed portion of her sentence and then began serving probation in February of 2019.

[3] On October 5, 2021, Hoffman requested to transfer her probation to Florida. The transfer was completed on November 5 and Hoffman was instructed to meet with her new probation officer, Stephanie Bercier, on November 22 at 1:00 p.m. Hoffman arrived several hours late, completed the intake paperwork, and was told to return on November 30. Hoffman failed to report on the

¹ Several documents in the record refer to Hoffman as “Natasha Oeffinger.” We note Hoffman has changed her surname since the commission of the underlying offense, but we will continue to refer to her as “Natasha Hoffman.” *See* Appellant’s App. Vol. 2, pp. 7-17; *see also* Ex. 1-3.

² Hoffman also argues her sanction is inappropriate and should be revised by this court under Indiana Appellate Rule 7(B). Appellant’s Br. p. 9. Rule 7(B) permits us to “revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” This, however, is not the appropriate standard to apply for review of a sanction imposed following a probation violation. *See Prewitt v. State*, 878 N.E.2d 184 (Ind. 2007).

indicated date and time and subsequently failed to maintain contact with Bercier altogether.

[4] On December 9, Hoffman was arrested in Gulf Shores, Alabama, after she was seen stacking and “skip scanning” items at a Wal-Mart. Tr. Vol. 2, p. 28. She was later charged with shoplifting as a result of this incident. On December 13, Bercier visited Hoffman’s home at the address provided on her intake paperwork. Finding no one home, she left a business card with instructions for Hoffman to report to the probation office the following day. Hoffman did not appear. Bercier made a second visit to the home on January 16. That time, she was greeted by the homeowner who indicated she had lived at the residence since November 8, 2021, and did not know Hoffman. Bercier attempted to contact Hoffman via phone following the unsuccessful home visits, but Hoffman did not answer and did not return Bercier’s calls. Bercier also attempted to verify Hoffman’s employment at the location reported by Hoffman to the probation office and discovered Hoffman did not work there.

[5] On January 25, 2022, the Jefferson County probation office filed a Notice of Probation Violation, alleging Hoffman had violated her probation in four ways: (1) failing to report; (2) reporting a false address and failing to update address; (3) failing to update employment; and (4) committing a new offense. The trial court held a fact-finding hearing on August 23. During the hearing, Hoffman admitted to each of the violations. The trial court revoked her probation and ordered the four-year suspended portion of her sentence executed in the

Department of Correction (DOC) with a recommendation she be placed in the Recovery While Incarcerated (RWI) program. Hoffman now appeals.

Discussion and Decision

- [6] Hoffman argues the trial court abused its discretion by failing to consider her mental health and substance abuse issues when it revoked her probation and ordered her to serve the suspended portion of her sentence executed in the DOC. “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Prewitt*, 878 N.E.2d at 188. The trial court may determine the conditions of probation and revoke probation if those conditions are violated. *Heaton v. State*, 984 N.E.2d 614 (Ind. 2013).
- [7] The burden is on the State to prove the violation by a preponderance of the evidence. Ind. Code § 35-38-2-3(f) (2015). During the probation revocation process, the trial court must first factually determine whether a violation of a condition of probation has occurred. *Heaton*, 984 N.E.2d 614. When the violation alleged is the commission of a new offense and the degree of culpability for the new offense is affected by the probationer’s mental health issues, the trial court must consider the probationer’s mental health. *Gaddis v. State*, 177 N.E.3d 1227 (Ind. Ct. App. 2021).
- [8] If the trial court determines there was a violation, then it must select the appropriate sanctions for the violation. *Heaton*, 984 N.E.2d 614. Sanctions for violations incurred during the probationary period include: (1) continuing the period of probation; (2) extending the period of probation; and (3) ordering

execution of part or all of the original suspended sentence. Ind. Code § 35-38-2-3(h). We review probation revocation sanctions for abuse of discretion, which “occurs where the decision is clearly against the logic and effect of the facts and circumstances.” *Prewitt*, 878 N.E.2d at 188.

[9] Hoffman’s original sentence of six years with four years suspended to probation was quite favorable given the severity of the offense.³ Almost three years into serving the suspended portion of her sentence, Hoffman violated her probation in four separate ways. She subsequently admitted to each of these violations at the fact-finding hearing, when she described in detail that: (1) she met with her new probation officer only once; (2) she changed her address but did not update it with her probation officer; (3) she was employed by an establishment different than the one reported on her intake paperwork; and (4) she was charged with a new offense in Alabama. Although the trial court was presented with Hoffman’s admissions, it was still required to make a factual determination that the violations actually occurred. *See Heaton*, 984 N.E.2d 614.

[10] Hoffman attributes each of her four probation violations to a mental breakdown she suffered following her husband’s sudden absence from their family. Also at the fact-finding hearing, Hoffman acknowledged she needed treatment and rehabilitation, steps she had never initiated before, as a result of the breakdown. Further, Hoffman’s mother testified to Hoffman’s history of substance abuse,

³ The sentencing range for a Class B felony is between six and twenty years, with an advisory sentence of ten years. Ind. Code § 35-50-2-5(a) (2014).

which began in Hoffman's late teens and eventually led to the underlying drug conviction in this cause. However, there is no evidence to suggest that Hoffman sought substance abuse treatment or rehabilitation while she was on probation or after she committed the instant violations.

[11] Because of the nature of the violations, the trial court was required to consider Hoffman's mental health. *See Gaddis*, 177 N.E.3d 1227. The court carefully considered the personal recounts of Hoffman's mental health and substance abuse issues, in addition to all other evidence presented, and determined Hoffman violated the conditions of her probation in each of the four ways alleged. Then, the court revoked Hoffman's probation, ordered Hoffman to serve the suspended portion of her sentence executed in the DOC, *and* recommended she be inducted into the RWI program.

[12] Hoffman's violations, numerous and independently substantial, point to the imposition of the harsher sanction as imposed. Furthermore, after reviewing the trial court's program recommendation, it is clear to us the trial court considered Hoffman's mental health and substance abuse issues in imposing the sanction. This type of program generally results in the potential for a modified or shortened term of incarceration after successful completion, an option which is still viable for Hoffman. Thus, we cannot say the sanction imposed is against the logic and effect of the facts and circumstances. *See Prewitt*, 878 N.E.2d 184.

Conclusion

[13] We conclude the trial court did not abuse its discretion when it ordered Hoffman to serve the suspended portion of her sentence as executed time after finding she violated her probation.

[14] Affirmed.

Vaidik, J., and Kenworthy, J., concur.