MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

David Jeffrey Sickles,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 11, 2025

Court of Appeals Case No.
24A-CR-2656

Appeal from the Vigo Superior Court

The Honorable Charles D. Johnson, Judge

Trial Court Cause Nos.
84D01-2301-F6-161
84D01-2308-F6-2882
84D01-2309-F6-3354

Memorandum Decision by Judge Mathias

Judges Foley and Felix concur.

Mathias, Judge.

[1] David Jeffrey Sickles appeals the Vigo Superior Court's revocation of his work release placement and sentence. Sickles presents a single issue for our review, namely, whether the State presented sufficient evidence to support the revocation of his work release placement.

[2] We affirm.

Facts and Procedural History

[3] Following his convictions for two counts of Level 6 felony theft and one count of Level 6 felony possession of methamphetamine under three separate case numbers, and following a violation of his ensuing probation, the trial court ordered Sickles to serve five years in a dual diagnosis[1] work release program ("work release"). Sickles entered the program in September 2023.

[4] Roughly two months later, the State filed a petition to revoke Sickles's placement due to rule violations, to which he admitted. Sickles spent some time in jail before returning to work release in February 2024. Less than one month later, the State filed another petition to revoke Sickles's placement. While that

[1] These programs cater to individuals struggling with mental health and/or substance abuse issues.

petition was pending, Sickles was returned to jail. Following a hearing on that petition, the trial court found that the evidence was insufficient to prove the alleged violation.

[5] On May 15, 2024, Sickles was returned to work release. Upon his admission into the facility that day, he "refused to go into the work release dorm that he had been assigned to." Tr. p. 11. From his prior experiences at the facility, Sickles knew that if he had "an issue with a dorm assignment," he was supposed to submit a "to/from" form and "explain why" he wanted a different assignment. *Id.* Sickles

> [r]efused to provide [a] reason or even a name [of a problem person in the dorm] for why he was refusing to go into the dorm. Mr. Sickles then, given the option to put in writing that he would rather go back to jail, . . . refused to sign the document. This is in violation of [Rule] 250B, refusing an order.

Id. The next day, the State filed a new petition to revoke his placement on work release.

[6] Sickles was placed, temporarily, in another dorm, but he was "then moved back to the original dorm and was told the only other option was to be taken back to jail." *Id.* Following a hearing, the trial court concluded that Sickles had violated the conditions of his placement, revoked his placement, and ordered him to return to jail. This appeal ensued.

Discussion and Decision

[7] Sickles challenges the trial court's revocation of his placement in work release. We have observed that both probation and community corrections programs serve as alternatives to commitment to the DOC, and both are made at the sole discretion of the trial court. *Treece v. State*, 10 N.E.3d 52, 56 (Ind. Ct. App. 2014), *trans. denied*. Indeed, a defendant is not entitled to serve his sentence in either probation or a community corrections program; rather, such placement is a matter of grace and a conditional liberty that is a favor, not a right. *Id.* Our standard of review following a trial court's decision to revoke placement in community corrections is well settled:

> The standard of review of an appeal from the revocation of a community corrections placement mirrors that for revocation of probation. That is, a revocation of community corrections placement hearing is civil in nature, and the State need only prove the alleged violations by a preponderance of the evidence. We will consider all the evidence most favorable to the judgment of the trial court without reweighing that evidence or judging the credibility of witnesses. If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of community corrections, we will affirm its decision to revoke placement.

McQueen v. State, 862 N.E.2d 1237, 1242 (Ind. Ct. App. 2007) (citations omitted).

[8] Sickles contends that the State did not present evidence that he had failed to obey a clear order, as alleged in the petition to revoke. He maintains that Abbie Shidler, the case manager who testified at the hearing, was inconsistent in her

description of the alleged violation. On the one hand, Sickles argues, Shidler testified that Sickles had "refus[ed] an order," but she also testified that Sickles had the "option" to go to jail. Tr. p. 11.

[9] Again, the State need only have proved the alleged violation by a preponderance of the evidence. Shidler testified that, during each of Sickles's three intakes at the facility, he would have been informed that the only way to challenge a dorm assignment was by submitting a "to/from" form. *Id.* During his admission on May 15, 2024, Sickles refused his dorm assignment but also refused to provide a reason, and he refused to sign a document indicating his preference to be returned to jail. Shidler testified that that was "in violation of [Rule] 250B, refusing an order." *Id.* In addition, Shidler testified that Sickles knew about the "to/from" form procedure because he had submitted those forms on four prior occasions. *Id.* at 14.

[10] While Shidler's testimony regarding the "option" to return to jail may have been less than ideally worded, she also unequivocally testified that he refused to submit a "to/from" form which he knew was required to obtain a dorm transfer. Indeed, Sickles refused to even explain his reason for wanting to be placed in a different dorm. Shidler stated clearly that Sickles had violated Rule 250B. The evidence was sufficient to prove the violation and we refuse Sickles's request to reweigh it.

[11] For all these reasons, we affirm the revocation of Sickles's work release placement.[2]

[12] Affirmed.

Foley, J., and Felix, J., concur.

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[2] To the extent Sickles argues that his ultimate placement back in the originally assigned dorm negates the violation on May 15, 2024, we disagree.