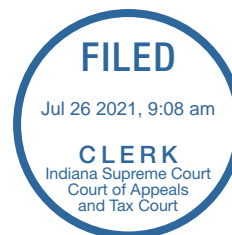


MEMORANDUM DECISION

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

Margaret E. Hobson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 26, 2021

Court of Appeals Case No.
21A-CR-419

Appeal from the Parke Circuit
Court

The Honorable Sam A. Swaim,
Judge

Trial Court Cause No.
61C01-1809-F5-280

Tavitas, Judge.

Case Summary

- [1] Following the revocation of her probation and community corrections placements, Margaret Hobson appeals the trial court's imposition of the balance of her previously-suspended sentence. Finding no abuse of discretion, we affirm.

Issue

- [2] Hobson raises one issue on appeal, which we restate as whether the trial court abused its discretion in imposing the remainder of her previously-suspended sentence.

Facts

- [3] Between May 18, 2019, and June 25, 2019, Hobson stole farm equipment from her grandfather, Vernon Hobson; as a result, the State charged Hobson with theft, a Level 6 felony, in Cause 61C01-1907-F6-178 ("F6-178"). On September 16, 2018, Hobson bit and struck an employee of the Turkey Run Gas and Grill establishment, causing injury. Following her arrest, Hobson kicked two employees of the Parke County Jail and bit a third employee, breaking his skin. On September 19, 2018, in Cause 61C01-1809-F5-280 ("F5-280"), the State charged Hobson with Count I, battery resulting in bodily injury to a public safety official, a Level 5 felony; Count II, battery against a public safety official, a Level 6 felony; and Count III, battery resulting in bodily injury, a Class A misdemeanor.

[4] Hobson and the State entered a plea agreement in consolidated Causes F6-178 and F5-280, and on October 24, 2019, Hobson entered guilty pleas thereto. At Hobson’s sentencing hearing on November 7, 2019, the trial court accepted the plea agreement and sentenced Hobson accordingly.¹ Regarding the offenses charged in F6-178, the trial court sentenced Hobson to 178 days, executed, to be served consecutively to her sentences in F5-280.² Regarding the offenses charged in F5-280, the trial court sentenced Hobson to: Count I, 730 days, with fifty-four days executed and 676 days suspended to probation “with standard terms, including any treatment recommended by Hamilton Center, taking medication as prescribed”; Count II, 365 days suspended to probation; and Count III, 365 days suspended to probation. Tr. Vol. II p. 5. The trial court ordered the sentences on the respective counts to be served consecutively to one another.

[5] In imposing its sentence, the trial court remarked to Hobson: “So you’ll basically be on probation for the balance of the 730[-]day sentence and the . . . two 365[-]day sentences.” *Id.* at 14. According to the terms and conditions of Hobson’s probation, Hobson was required to: (1) obey all laws; (2) abstain from drugs and alcohol; (3) submit to random drug and alcohol testing; (4) take all prescribed medication; and (5) complete all recommended treatment.

¹ Pursuant to the plea agreement, the trial court dismissed additional charges that were pending against Hobson in Cause 61C01-1908-CM-259. *See* Tr. Vol. II pp. 15-16; *see also* Conf. App. Vol. II p. 54.

² The trial court ordered that Hobson should execute her sentence for the F6-178 offense first.

[6] On January 23, 2020, while Hobson was on probation, she produced an insufficient drug testing sample and was combative with drug testing personnel. On February 5, 2020, and again on February 26, 2020, Hobson tested positive for methamphetamine and THC. During the relevant period, Hobson also failed to attend court-ordered treatment. On March 3, 2020, the Parke County Probation Department filed a petition alleging that Hobson violated the terms of her probation. The trial court conducted a hearing on the alleged probation violation on April 28, 2020. Hobson denied knowingly using methamphetamine but admitted that she used THC that may have been laced with methamphetamine; she also admitted that she missed a behavioral health treatment session. The trial court found that Hobson violated the terms of probation.

[7] At the disposition hearing on June 9, 2020, Hobson notified the trial court that West Central Regional Community Corrections (“WCCC”) approved Hobson for community corrections placement. The trial court revoked 1,378 days of Hobson’s previously-suspended sentence, which the court ordered Hobson to serve as a direct commitment to the WCCC. The trial court ordered Hobson “to be regularly drug screened and take all medications as prescribed, comply with all treatment recommendations from her doctors.” *Id.* at 32.

[8] On or about June 9, 2020, Hobson began to serve her community corrections placement on home detention. In October 2020, Hobson failed an oral drug test and was discharged from intensive outpatient treatment. On November 4, 2020, Hobson also visited the residence of a person who was on home detention

without permission;³ and on November 13, 2020, Hobson tested positive for amphetamine, methamphetamine, and cannabinoids.

[9] On November 25, 2020, the WCCC filed a petition to revoke or modify Hobson’s community corrections placement. Hobson admitted to the violations on January 12, 2021, and the trial court found that she violated the rules and regulations of her community corrections placement and revoked the placement. On March 9, 2021, the trial court conducted a dispositional hearing, wherein Hobson requested another chance to conform her conduct and avoid a prison term. Hobson testified that she: (1) relapsed while she was on community corrections; (2) wanted to assist her ex-husband with caregiving for her son with autism; and (3) believed that, given more time, she could become compliant. The trial court responded:

[] Ms. Hobson, you’ve been given every service that is possible in Parke County [] for an extensive period of time. You’ve alienated and been rude to all the Probation staff and everyone else that’s tried to help you over the years. There’s just [] nothing else left for you other than prison time so if you don’t want to go to prison don’t commit any crimes. I mean that’s all I [] can tell you today. I mean if you’re concerned about your children you shouldn’t have violated your community corrections. You shouldn’t have been arrested in the first place.

³ “Per WCCC rules[,] [Hobson was] not allowed to spend time with anyone on probation, parole, condition of bond or home detention, while on the program.” Conf. App. Vol. II p. 126.

Tr. Vol. II p. 49. The trial court ordered that the balance of Hobson's remaining sentence be served in the Department of Correction ("DOC").

Hobson now appeals.

Analysis

[10] Hobson argues that the trial court abused its discretion in ordering Hobson to serve the remainder of her previously-suspended sentence in the DOC. She maintains that: (1) her community corrections violations "were the result of her substance abuse[,] drug relapses[,] and mental health disorders;⁴ (2) the DOC cannot provide "appropriate" treatment comparable to an "intensive, community-based, treatment program, staffed with competent mental health professionals"; and (3) the trial court reinstated her previously-revoked sentence "without giving adequate consideration to mitigating circumstances which were clearly supported by the record." Hobson's Br. pp. 9, 10, 12, 13. We cannot agree.

[11] "For purposes of appellate review, we treat a hearing on a petition to revoke a placement in a community corrections program the same as we do a hearing on a petition to revoke probation." *Flowers v. State*, 101 N.E.3d 242, 247 (Ind. Ct. App. 2018) (quoting *Withers v. State*, 15 N.E.3d 660, 663-64 (Ind. Ct. App. 2014)). "'Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.'" *Heaton v. State*, 984 N.E.2d 614, 616

⁴ Hobson was diagnosed with depression, seizure disorder, and post-traumatic stress disorder.

(Ind. 2013) (quoting *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). “It is within the discretion of the trial court to determine probation conditions and to revoke probation if the conditions are violated.” *Id.* “In appeals from trial court probation violation determinations and sanctions, we review for abuse of discretion.” *Id.* “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances,” *id.*, “or when the trial court misinterprets the law.” *Id.* (citing *State v. Cozart*, 897 N.E.2d 478, 483 (Ind. 2008)). “We will consider all the evidence most favorable to supporting the judgment of the trial court without reweighing that evidence or judging the credibility of the witnesses.” *Holmes v. State*, 923 N.E.2d 479, 483 (Ind. Ct. App. 2010) (quoting *Monroe v. State*, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009)).

[12] “Probation revocation is a two-step process. First, the trial court must make a factual determination that a violation of a condition of probation actually occurred.” *Heaton*, 984 N.E.2d at 616 (citing *Woods v. State*, 892 N.E.2d 637, 640 (Ind. 2008)). “Second, if a violation is found, then the trial court must determine the appropriate sanctions for the violation.” *Id.*

[If the trial 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: . . . order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Ind. Code § 35-38-2-3(h)(3).

[13] “[E]ven a probationer who admits the allegations against him must still be given an opportunity to offer mitigating evidence suggesting that the violation does not warrant revocation.” *Woods*, 892 N.E.2d at 640. That said, the trial court is not obliged to balance aggravating and mitigating factors when deciding whether to revoke probation and in imposing a sentence. *Porter v. State*, 117 N.E.3d 673, 675 (Ind. Ct. App. 2018). Moreover, it is well settled that a single violation of a condition of probation is sufficient to permit the trial court to revoke probation. *Pierce v. State*, 44 N.E.3d 752, 755 (Ind. Ct. App. 2015).

[14] The record reveals that Hobson committed a series of knowing violations of the terms of her probation and community corrections placements. While Hobson was on probation for theft and battery offenses, she admittedly used THC and missed a behavioral health treatment session; and while Hobson was serving a direct commitment in community corrections, she admittedly failed a service provider’s oral drug test and also tested positive for amphetamine, methamphetamine, and cannabinoids. The record is also clear that the trial court considered, but was not persuaded by, Hobson’s proffered mitigating evidence regarding her substance addiction and mental health disorders. We agree with the State that, “in the end, [despite the trial court] having given [Hobson] the opportunity not once, but twice, to meet her addiction-related needs and benefit from a probationary period, she repeatedly violated anyway.” *See State’s Br.* p. 10. Hobson’s contentions amount to an invitation that we should reweigh the evidence, which we cannot do.

[15] The trial court's order that Hobson serve her previously-suspended sentence in the DOC in response to her repeated violations of the terms of her probation and community corrections placements was not against the logic and effect of the facts and circumstances before it. Accordingly, we conclude that the trial court did not abuse its discretion in ordering Hobson to serve the balance of her previously-suspended sentence in the DOC.

Conclusion

[16] The trial court did not abuse its discretion in ordering Hobson to serve the balance of her previously-suspended sentence in the DOC. We affirm.

[17] Affirmed.

Mathias, J., and Weissmann, J., concur.