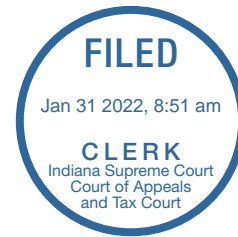


MEMORANDUM DECISION

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

Timothy R. Prince, II,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 31, 2022

Court of Appeals Case No.
21A-CR-1936

Appeal from the Monroe Circuit
Court

The Honorable Darcie L. Fawcett,
Judge

Trial Court Cause No.
53C09-1705-F5-475

Bailey, Judge.

Case Summary

- [1] Timothy R. Prince, II (“Prince”) appeals an order of the trial court that revoked his probation and ordered him to serve a portion of his previously suspended sentence in the Indiana Department of Correction (“the DOC”). Prince presents the issue of whether the trial court abused its discretion when it ordered him to serve 1,600 days in the DOC. We affirm.

Facts and Procedural History

- [2] On June 14, 2018, Prince pled guilty to Dealing in Methamphetamine, as a Level 5 felony,¹ and Resisting Law Enforcement, as a Level 6 felony.² He was given a six-year sentence, which was suspended to probation. On August 16, 2018, the State filed a Notice of Probation Violation and petitioned to revoke Prince’s probation. The petition was thrice amended to include new allegations and, on March 12, 2020, Prince admitted to violating his probation. He was ordered to perform twenty-four hours of community service work.
- [3] On October 5, 2020, the State again filed a petition to revoke Prince’s probation; this petition was amended five times to include new allegations. On August 4, 2021, Prince entered into a plea agreement with the State to dispose of the revocation petition and an unrelated pending charge. At a hearing

¹ Ind. Code § 35-48-4-1.1(a)(1).

² I.C. § 35-44.1-3-1.

conducted the same day, Prince admitted to violating his probation by using methamphetamine, committing a new criminal offense, failing to report to probationary appointments on eight occasions, and failing to provide proof of participation in a drug treatment program. The trial court found Prince in violation of the terms of his probation and revoked his probation. Prince was ordered to serve 1,600 days of his previously suspended sentence. He now appeals.

Discussion and Decision

[4] Probation may be revoked where: (1) the person violated a condition of the probation during the probationary period; and (2) the petition to revoke probation was filed during the probationary period or before the earlier of one year after termination of probation or forty-five days after the state receives notification of the violation. *See* Ind. Code § 35-38-2-3(a). Prince admits that he violated conditions of his probation and he does not challenge the timing of the State's petition to revoke. Rather, Prince contends that the trial court abused its discretion by ordering that he serve 1,600 days of his previously suspended sentence.

[5] Where the court finds a person has violated a condition of probation, the court may: (1) continue the person on probation, with or without modifying or enlarging the conditions; (2) extend the person's probationary period for not more than one year beyond the original probationary period; or (3) order the execution of all or part of the sentence that was suspended at the time of initial

sentencing. *See* I.C. § 35-38-2-3(h). Trial courts enjoy broad discretion in adjudicating a probation violation. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). We review that decision only for an abuse of discretion, which occurs when the decision is clearly against the logic and effect of the facts and circumstances. *Id.* It is well within the trial court's discretion to determine the conditions of probation and revoke it if the conditions are violated. *Id.* When a trial court exercises its grace by ordering probation rather than incarceration, the judge has considerable leeway in deciding how to proceed. *Id.*

[6] Prince began to violate conditions of his probation soon after it began. On August 16, 2018, the State filed a petition to revoke Prince's probation, and subsequently amended the petition three times. On March 12, 2020, Prince admitted to violating his probation by committing theft and driving while his license was suspended. Prince was continued on probation but ordered to perform twenty-four hours of community service work. On October 5, 2020, another petition to revoke probation was filed; this petition was subsequently amended five times. Prince pled guilty to Resisting Law Enforcement and admitted to violating the terms of his probation in the instant case by: using methamphetamine and amphetamines, testing positive for illegal substances on three probationary drug screens, failing to provide proof of participation in drug abuse treatment, failing to report for eight scheduled appointments with his probation officer, and committing a new criminal offense.

[7] Prince has six prior felony convictions. He argues that he now deserves leniency on account of his addiction and motivation to change, but he has

failed to avail himself of rehabilitative opportunities afforded him in the past. Prince was unsuccessfully discharged from the treatment program New Beginnings. He has repeatedly demonstrated his unwillingness to conduct himself in a lawful manner, notwithstanding the grace bestowed upon him by the court. We are not persuaded that the trial court's decision was clearly against the logic and effect of the facts and circumstances.

[8] Affirmed.

Mathias, J., and Altice, J., concur.