

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jennifer Jeffries,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 8, 2022

Court of Appeals Case No.
22A-CR-702

Appeal from the Bartholomew
Superior Court

The Honorable James D. Worton,
Judge

Trial Court Cause Nos.
03D01-2001-F6-535
03D01-2007-F6-3296

Tavitas, Judge.

Case Summary

- [1] Jennifer Jeffries appeals the trial court's imposition of her previously-suspended sentence as a result of her probation revocation. Jeffries does not deny that she repeatedly violated certain terms and conditions of her probation; rather, she argues that the trial court's sanction was an abuse of discretion. Finding that the trial court did not abuse its discretion, we affirm.

Issue

- [2] Jeffries raises one issue, which we restate as whether the trial court abused its discretion by imposing Jeffries' previously-suspended sentence as a result of her probation revocation.

Facts

- [3] In January 2020, the State charged Jeffries with possession of methamphetamine, a Level 6 felony, and possession of paraphernalia, a Class C misdemeanor. While she was on pretrial release, in July 2020, the State charged Jeffries with unlawful possession of a syringe, a Level 6 felony, and possession of methamphetamine, a Level 6 felony.
- [4] Jeffries agreed to plead guilty to possession of methamphetamine, a Level 6 felony, and unlawful possession of a syringe, a Level 6 felony, and the State agreed to dismiss the remaining charges. At an August 2020 sentencing hearing, the trial court sentenced Jeffries to consecutive one-year sentences suspended to probation for each conviction for an aggregate sentence of two

years suspended to probation. The trial court also ordered that Jeffries be placed in community corrections for the first year of probation.

[5] On April 20, 2021, the State filed a petition to revoke Jeffries' probation. On September 2, 2021, the State filed an amended petition to revoke Jeffries' probation. The State alleged that Jeffries: (1) used methamphetamine on March 4, 2021; (2) failed to report to her probation officer on March 7, 2021, March 29, 2021, and March 31, 2021; (3) failed to notify the probation department of her change in address; (4) failed to follow her substance abuse treatment recommendations; (5) failed to pay probation fees and costs; and (6) left Grace House against medical advice on August 27, 2021. Jeffries failed to appear for a September 2021 hearing, and she was not arrested until February 2022.

[6] At a March 2022 hearing, Jeffries admitted that she was in violation of her probation as the State alleged in its amended petition. The trial court ordered Jeffries to serve the balance of her previously-suspended sentence in the Bartholomew County Jail. Jeffries now appeals.

Discussion and Decision

[7] Jeffries argues that the trial court abused its discretion in ordering her to serve two years of her previously-suspended sentence in the Bartholomew County Jail upon the trial court's determination that Jeffries violated multiple terms and conditions of her probation. This Court reviews the imposition of sanctions for probation violations for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614,

616 (Ind. 2013) (quoting *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances . . . or when the trial court misinterprets the law.” *Id.* (citing *State v. Cozart*, 897 N.E.2d 478, 483 (Ind. 2008)). We consider the evidence most favorable to the judgment of the trial court, without reweighing that evidence or judging the credibility of the witnesses. *Ripps v. State*, 968 N.E.2d 323, 326 (Ind. Ct. App. 2012).

- [8] ““Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.”” *Heaton*, 984 N.E.2d at 616 (quoting *Prewitt*, 878 N.E.2d at 188). “It is within the discretion of the trial court to determine probation conditions and to revoke probation if the conditions are violated.” *Id.* “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.” *Id.* (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.* It is well-settled that the violation of a single condition of probation is sufficient to permit a trial court to revoke probation. *Pierce v. State*, 44 N.E.3d 752, 755 (Ind. Ct. App. 2015).

- [9] Indiana Code Section 35-38-2-3(h), pertains to the violation of conditions of probation, provides in part as follows:

If the 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 impose one (1) or more of the following sanctions:

(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 (1) year beyond the original probationary period.

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

I.C. § 35-38-2-3(h) (emphasis added). In general, if the trial court follows the procedures outlined in Indiana Code Section 35-38-2-3, the court may properly order execution of a suspended sentence upon a finding of a violation by a preponderance of the evidence. *Killebrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021); see *Prewitt*, 878 N.E.2d at 187 (holding that, in revoking a probationer's previously-suspended sentence, a court can order execution of “all or part” of a suspended sentence).

[10] At the evidentiary hearing, Jeffries admitted that she: (1) used methamphetamine on March 4, 2021; (2) failed to report to her probation officer on March 7, 2021, March 29, 2021, and March 31, 2021; (3) failed to notify the probation department of her change in address; (4) failed to follow her substance abuse treatment recommendations; (5) failed to pay probation fees and costs; and (6) left Grace House against medical advice on August 27, 2021. Jeffries then testified that she cared for her elderly aunt, that she had two jobs, including a newspaper route, and that she had no prior violations of her

probation. A probation department representative testified that they “really have no idea what [Jeffries] has been doing” since March 2021. Tr. Vol. II p. 21. The probation department asked that Jeffries be required to execute the balance of her sentence because “it’s kind of hard to . . . monitor somebody when . . . they don’t report or you have no idea where they are.” *Id.*

[11] Jeffries’ contentions on appeal merely invite us to reweigh the evidence, which we cannot do. Jeffries repeatedly violated the conditions of her probation and absconded rather than attend her probation revocation hearing. The trial court acted within its statutory authority when it imposed Jeffries’ previously-suspended sentence, and we find no abuse of discretion.

Conclusion

[12] The trial court did not abuse its discretion in imposing Jeffries’ previously-suspended sentence as a probation violation sanction. We affirm.

[13] Affirmed.

Riley, J., and May, J., concur.