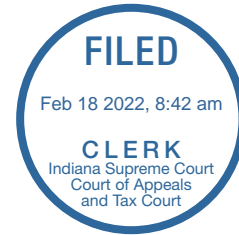


MEMORANDUM DECISION

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

Lisa Joann Lisk,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

February 18, 2022

Court of Appeals Case No.
21A-CR-2035

Appeal from the Hamilton
Superior Court

The Honorable David K. Najjar,
Judge

Trial Court Cause No.
29D05-2104-F6-2246

Pyle, Judge.

Statement of the Case

- [1] Lisa Lisk (“Lisk”) appeals the revocation of her direct commitment to a community corrections program. Her sole argument is that there is insufficient evidence to support the revocation. Concluding that the evidence is sufficient to support the revocation, we affirm the trial court’s judgment.
- [2] We affirm.

Issue

Whether there is sufficient evidence to support the revocation of Lisk’s direct commitment to community corrections.

Facts

- [3] In May 2021, Lisk pleaded guilty to Level 6 felony theft. Pursuant to a plea agreement, the trial court sentenced Lisk to a 550-day direct commitment to the Hamilton County Community Corrections Work Release Program (“HCCC”).
- [4] Thereafter, Lisk signed HCCC’s Residential Program Contract, wherein she agreed to comply with the following program requirements: (1) provide verification of her work hours; (2) allow HCCC personnel to monitor her employment by examining her timecards; and (3) travel a direct route to and from work without making any stops. In addition, Lisk acknowledged that, if the trial court concluded that she had violated any of these requirements, the trial court had the authority to revoke her direct placement to HCCC.

[5] Lisk began the HCCC program on May 13, 2021. She worked at Burger King and provided her timecards to an HCCC staff person. HCCC allotted her an hour to ride her bicycle from the HCCC facility to Burger King and another hour to ride her bicycle back to the HCCC facility from Burger King after she had completed her shift. In other words, Lisk was expected to clock in at Burger King an hour after she left the HCCC facility and to return to the HCCC facility an hour after she left Burger King at the end of her shift. Any deviation from this time frame resulted in Lisk accruing unaccounted-for time, which violated the provision of her HCCC contract that required her to travel a direct route to and from work without making any stops.

[6] On May 18, 2021, less than a week after Lisk had begun the HCCC program, Lisk left the HCCC facility at 4:03 a.m. but did not clock in at Burger King until 11:51 a.m., which resulted in nearly seven hours of unaccounted-for time. On June 18, 2021, Lisk left the HCCC facility at 7:00 a.m. and returned at 4:51 p.m. However, Lisk did not clock in or out of Burger King on that date, and she accumulated nearly ten additional hours of unaccounted-for time. From May 18 through June 26, Lisk accumulated unaccounted-for time on ten different days.

[7] When an HCCC field services coordinator (“the coordinator”) confronted Lisk about the unaccounted-for time, Lisk denied having unaccounted-for time. According to Lisk, she had been at work at Burger King during those times. The coordinator asked Lisk to re-submit copies of her timecards so that the coordinator could re-check Lisk’s unaccounted-for time. Lisk submitted a

handwritten timecard that she claimed had been written by a Burger King manager. However, the handwritten timecard was unsigned. Because HCCC does not accept handwritten timecards, the coordinator again asked Lisk to submit an official timecard. Lisk responded by submitting an electronic timecard with handwritten changes. Even with the handwritten changes, Lisk's timecard did not account for all of Lisk's unaccounted-for time.

[8] In August 2021, HCCC filed a notice alleging that Lisk had failed to comply with the requirements of her community corrections placement. In this notice, HCCC specifically alleged that, between May 18, 2021, and June 26, 2021, Lisk had accumulated twenty-nine hours and thirty-five minutes of unaccounted-for release time.

[9] At the August 2021 hearing on HCCC's notice of non-compliance, the trial court heard the evidence as set forth above. Also at trial, Lisk denied that she had unaccounted-for time. Lisk further testified that her manager, Norma, had handwritten the timecard that she had submitted so that the coordinator could re-check her time. Later in the hearing, Lisk admitted that she had written that timecard, but she claimed that Norma had signed it. However, there was no signature on the timecard. Lisk also testified that, on June 15, she had forgotten to clock in and had "just started working." (Tr. Vol. 2 at 24). Lisk further testified that she had been paid for that day but had no documentation to support her testimony. Lisk also testified that her timecards did not accurately represent her work hours because a manager had been oversleeping.

She later testified that her timecards were not accurate because a manager had been abusing the time punches.

[10] At the end of the hearing, the trial court stated as follows:

Based upon the evidence that has been presented here today, the Court will find that there is a violation of Community Corrections[.] Ms. Lisk, I will simply say nothing adds up here except for one thing. Your stories keep changing every time. It's this, then it's that. Then it's something else, then it's something else. And it all adds up to I cannot believe you, ma'am. You have no credibility whatsoever regarding this matter. I believe the State has proved that you have unaccounted[-]for hours[.] You're in violation[.] At this time, the Court will show that [Lisk's] Community Corrections commitment will be revoked.

(Tr. Vol. 2 at 34, 35, 36). The trial court ordered Lisk to serve the remainder of her 550-day sentence in the Hamilton County Jail or the Department of Correction ("the DOC").

[11] Lisk now appeals.

Decision

[12] Lisk argues that there is insufficient evidence to support the revocation of her direct commitment to community corrections. We disagree.

[13] At the outset, we note that placement in a community corrections program serves as an alternative to a commitment to the DOC. *McQueen v. State*, 862 N.E.2d 1237, 1242 (Ind. Ct. App. 2007). A defendant is not entitled to serve a sentence in a community corrections program. *Id.* Rather, placement in a

community corrections program is a “matter of grace” and a “conditional liberty that is a favor, not a right.” *Id.* (internal citation omitted).

[14] “The standard of review for revocation of a community corrections placement is the same standard as for a probation revocation.” *Bennett v. State*, 119 N.E.3d 1057, 1058 (Ind. 2019). That is, a revocation of community corrections placement hearing is civil in nature, and the State need only prove the alleged violation by a preponderance of the evidence. *McQueen*, 862 N.E.2d at 1242. We will consider all the evidence most favorable to the trial court’s judgment without reweighing that evidence or judging the credibility of witnesses. *Id.* If there is substantial evidence of probative value to support the trial court’s conclusion that a defendant has violated the terms of her community corrections placement, we will affirm the trial court’s decision to revoke that placement. *Id.*

[15] We further note that alternative sentences, such as community corrections, serve the humane purposes of avoiding incarceration and permitting the offender to meet her financial obligations. *Id.* “But for sentencing alternatives to be viable options for Indiana judges, judges must have the ability to move with alacrity to protect public safety when adjudicated offenders violate the conditions of their sentences.” *Id.* at 1242-43 (internal citation omitted).

[16] Here, our review of the evidence most favorable to the judgment reveals that Lisk knew that an accumulation of unaccounted-for time was a violation of her community corrections placement. However, within five days of her placement

in HCCC, Lisk began accumulating unaccounted-for time. Within five weeks, Lisk had accumulated twenty-nine hours and thirty-five minutes of unaccounted-for time. Because this evidence supports the trial court's conclusion that Lisk violated the terms of her community corrections placement by accumulating unaccounted-for time, we affirm the trial court's revocation of Lisk's community corrections placement. *See McQueen*, 862 N.E.2d at 1242. Lisk's arguments are requests that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. *See id.*

[17] Affirmed.

May, J., and Brown, J., concur.