

MEMORANDUM DECISION

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**IN THE
COURT OF APPEALS OF INDIANA**

Jill McDonald,
Appellant-Defendant,
v.
State of Indiana,
Appellee-Plaintiff

November 18, 2022
Court of Appeals Case No.
22A-CR-1339
Appeal from the
Dearborn Superior Court
The Honorable
Jonathan N. Cleary, Judge
Trial Court Cause No.
15D01-2110-F6-392

Vaidik, Judge.

Case Summary

- [1] Jill McDonald appeals the trial court's order that she serve one year of her two-year suspended sentence for violating her probation. We affirm.

Facts and Procedural History

- [2] In 1997, McDonald was convicted of indecent assault and battery of a person under the age of fourteen in Massachusetts. As a result of these convictions, McDonald must register as a sex offender for life. In 2021, the State of Indiana charged McDonald with two counts of Level 6 felony failure to register as a sex offender. The State and McDonald entered into a plea agreement under which McDonald would plead guilty to one count of Level 6 felony failure to register, the State would dismiss the other count, and McDonald would be sentenced to two-and-a-half years, with six months to serve and two years suspended to probation. As a condition of probation, McDonald was required not to consume any drugs and to submit to drug testing. The trial court accepted the plea agreement and sentenced McDonald according to its terms.
- [3] McDonald was released from incarceration in February 2022. Two months later, in April, McDonald underwent a drug screen, which was positive for methamphetamine and amphetamine. The State petitioned to revoke McDonald's probation. McDonald admitted violating her probation, and the sanction was left to the discretion of the trial court. At the hearing, McDonald testified she used drugs because she was going through a stressful time: her husband had a major heart attack, her father had been in and out of the

hospital, and she “just had a TPR case on [her] son.” Tr. p. 8. The State presented evidence of McDonald’s criminal history, which on top of the Massachusetts convictions includes a 2006 conviction for a registry offense in Kentucky, three convictions for operating while intoxicated (2013, 2018, and 2019), and a 2017 conviction for cruelty to an animal. The State asked the trial court to order McDonald to serve one year of her two-year suspended sentence while McDonald asked the court to order her to serve thirty days. The court found that “revoking the full two years would not be unreasonable” but ultimately ordered McDonald to serve just one year given the State’s “merciful” recommendation. *Id.* at 13.

[4] McDonald now appeals.

Discussion and Decision

[5] McDonald contends the trial court should not have ordered her to serve one year of her two-year suspended sentence for violating her probation. Trial courts enjoy broad discretion in determining the appropriate sanction for a probation violation, and we review only for an abuse of that discretion. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007).

[6] McDonald claims that she used drugs because of “extraordinarily stressful circumstances” and that her violation was “technical in nature.” Appellant’s Br. p. 10. We first point out that positive drug screens are “hardly mere ‘technical’ violations of probation.” *Overstreet v. State*, 136 N.E.3d 260, 264 (Ind. Ct. App. 2019), *trans. denied*. In addition, the trial court heard McDonald’s testimony

about the “stressful circumstances” she was under but found that her criminal history was extensive and warranted the full two years. We agree with the court that McDonald’s criminal history justifies the sanction despite the “stressful circumstances.” The court did not abuse its discretion in ordering McDonald to serve just one year of her two-year suspended sentence.

[7] Affirmed.

Riley, J., and Bailey, J., concur.