

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Daniel Widener,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 5, 2021

Court of Appeals Case No.
21A-CR-1076

Appeal from the Dearborn Circuit
Court

The Honorable James D.
Humphrey, Judge

Trial Court Cause No.
15C01-2005-F2-7

Bailey, Judge.

Case Summary

- [1] Daniel Widener (“Widener”) appeals an order revoking his probation and ordering that he serve the previously suspended portion of his sentences for Possession of Methamphetamine¹ and Possession of a Controlled Substance,² as Level 6 felonies. He presents the sole issue of whether sufficient evidence supports the revocation. We affirm.

Facts and Procedural History

- [2] On October 22, 2020, Widener pled guilty to Possession of Methamphetamine and Possession of a Controlled Substance. He received an aggregate sentence of four years of imprisonment, with three years and twenty-nine days suspended to probation. Among other conditions of his probation, Widener was ordered to refrain from committing any criminal act, specifically including illicit drug use.
- [3] On March 1, 2021, Widener submitted to a urine drug screen at the request of his probation officer. The test yielded positive results for THC, amphetamine, and methamphetamine. A Notice of Probation Violation was filed on March 15, 2021, alleging that Widener had violated his probation by using illicit drugs, and a warrant was issued for Widener’s arrest.

¹ Ind. Code § 35-48-4-6.1.

² I.C. § 35-48-4-6.

[4] Widener had recently been placed under surveillance by the Dearborn County Sheriff's Department and the Rising Sun Police Department on suspicion of drug trafficking. Officers had installed a GPS tracking device underneath a vehicle registered to Widener, a white Pontiac Grand Am, and they had frequently observed the vehicle parked outside a Lawrenceburg, Indiana address. On March 15, 2021, officers tasked with executing the probation violation arrest warrant proceeded to the Lawrenceburg address and waited for several hours. Around 4:00 p.m., an individual later identified as Widener entered the Grand Am and began to drive away.

[5] Dearborn County Sheriff's Deputies T.J. Pendergast ("Deputy Pendergast") and Garrett Rollins ("Deputy Rollins") followed the Grand Am. Deputy Pendergast activated his lights and moved his vehicle so as to impede Widener's path. However, Widener went around the police vehicle and accelerated his speed. Deputy Rollins observed Widener's vehicle go airborne as it crossed a railroad track, and the deputy "assumed [the vehicle] was going to crash." (Tr. Vol. II, pg. 222.) Deputy Rollins exited his vehicle and drew his firearm, anticipating a vehicular stop. However, as Widener approached the deputy, Widener ducked his head down and accelerated his speed. Deputy Rollins was forced to jump out of the path of the vehicle, which came within inches of him. Thereafter, Greendale Police Officer Isaac Veid ("Officer Veid") joined in the chase, and the officers pursued Widener at speeds of up to 115 miles per hour. After the vehicles crossed into the State of Kentucky, the pursuit was

terminated for safety reasons. Widener was arrested after voluntarily returning to Lawrenceburg.

- [6] A second Notice of Probation Violation was filed on March 19, 2021, alleging that Widener had violated his probation by committing new criminal offenses in connection with the vehicular chase. An evidentiary hearing commenced on April 7, 2021. The State submitted into evidence drug screen results and elicited testimony from law enforcement officers regarding the events of March 15, 2021. On May 5, 2021, the trial court issued an order revoking Widener's probation and ordering his imprisonment for the previously suspended three years and twenty-nine days. Widener now appeals.

Discussion and Decision

- [7] Widener challenges the sufficiency of the evidence to support the trial court's determination that he violated his probation by committing new criminal offenses. According to Widener, his identity as the person who fled from officers and accelerated his vehicle when approaching Deputy Rollins was not established by unequivocal testimony. He also asserts that the drug screen evidence "did not bear sufficient indicia of reliability" and thus should be disregarded in our review. Appellant's Brief at 4.
- [8] 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. *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 consequences for the violation. *Id.* In adjudicating a probation violation allegation, the trial court has broad discretion to determine the conditions of probation and to revoke probation if the conditions have been violated. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007).

[9] A probation hearing is civil in nature and the State need only prove the alleged violation by a preponderance of the evidence. *Smith v. State*, 963 N.E.2d 1110, 1112 (Ind. 2012). However, neither an arrest alone nor the mere filing of a charge against a defendant establishes a probation violation. *Jackson v. State*, 6 N.E.3d 1040, 1042 (Ind. Ct. App. 2014). Rather, when the State alleges that the defendant violated probation by committing a new criminal offense, the State is required to prove—by a preponderance of the evidence—that the defendant committed the offense. *Id.*

[10] The reviewing court considers only the evidence most favorable to the trial court’s judgment without reweighing the evidence or judging the credibility of witnesses. *Woods*, 892 N.E.2d at 639. If there is substantial evidence of probative value to support the trial court’s decision that the defendant has violated any terms of probation, we will affirm. *Id.*

[11] Here, the State elicited eyewitness testimony from Deputy Pendergast, Deputy Rollins, Officer Veid, and Dearborn County Sheriff’s Department Detective Adam Ziegler (“Detective Ziegler”). They collectively testified that Widener failed to stop when visually directed to do so, and that he fled at a high rate of

speed and wove his vehicle in and out of traffic, endangering himself and others. Deputy Rollins testified that he narrowly escaped being struck by Widener's vehicle. Widener does not deny that the events took place; however, he suggests that the officers did not actually know who was driving the Grand Am.

[12] Because a moving van obstructed their sight line, the surveilling officers had not observed Widener enter the Grand Am. However, they obtained and reviewed video footage from a nearby law firm that had captured the driver walk to the Grand Am, open the driver side door, and sit down. Detective Ziegler testified that he was "sure" the man in the video was Widener; he based this upon the man's gait and clothing. (Tr. Vol. II, pg. 149.) According to Detective Ziegler, the man was wearing a distinctive shirt, designating an affiliation with "Saxon Knights," and the detective had seen Widener wearing such a shirt two days earlier. (*Id.* at 123.) Deputy Pendergast testified that there was "no doubt" in his mind that the person in the video was Widener. (*Id.* at 195.) Officer Veid also testified to having "no doubt" that Widener was depicted in the video. (Tr. Vol. II, pg. 43.) During Officer Veid's prior employment in insurance sales, he had met with Widener face-to-face; he based his current identification on Widener's gait, shirt, hair, and side profile.

[13] Apart from the video footage, Deputy Rollins had observed the fleeing vehicle at a close range. He estimated that the vehicle was about twenty feet away when the driver ducked down. The officer got a "good look" and saw that Widener was driving. (Tr. Vol. II, pg. at 242.) In sum, Widener was

definitively identified by several police officers as the person who led them on a dangerous vehicular chase. Also, Probation Officer Stephen Bradley testified that Widener provided a urine drug screen on March 1, 2021, and the sample was transmitted to Cordant Laboratories. The results, accompanied by affidavits of verification, were admitted into evidence without objection from Widener, indicating his use of THC, methamphetamine, and amphetamine. Widener's claims of equivocation and unreliability merely present requests to reweigh the evidence, which we cannot do. *See Woods*, 892 N.E.2d at 639.

Conclusion

[14] The State presented sufficient evidence from which the trial court could conclude, by a preponderance of the evidence, that Widener violated the terms of his probation. Accordingly, the trial court did not abuse its discretion by revoking Widener's probation.

[15] Affirmed.

Crone, J., and Pyle, J., concur.