

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jason Allen Bartley,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

April 17, 2023

Court of Appeals Case No.
22A-CR-2827

Appeal from the Jefferson Superior
Court

The Honorable Blaine S. Goode,
Judge

Trial Court Cause No.
39D01-2105-F6-491

Memorandum Decision by Judge Mathias
Judges May and Bradford concur.

Mathias, Judge.

[1] Bartley raises a single issue for our review, namely, whether the trial court abused its discretion when it revoked his probation and ordered the remainder of his sentence to be served at the Department of Correction.

[2] We affirm.

Facts and Procedural History

[3] In February 2021, Jason Bartley violated a restraining order after entering the home of L.D. On May 14, 2021, the State charged Bartley with Level 6 felony invasion of privacy. On October 20, 2021, Bartley was sentenced to 360 days, with 354 days suspended to probation. Conditions of his probation included that Bartley would not commit any criminal offenses, would notify his probation officer of any change in employment within twenty-four hours, would meet with his probation officer as directed, would report any contact with law enforcement within forty-eight hours, would abstain from consuming alcohol or illegal drugs, would submit to drug screens, and would pay probation fees.

[4] Between July 15 and September 14, 2022, Bartley tested positive and/or admitted to the use of methamphetamine, amphetamine, and marijuana six times and admitted to consuming alcohol at least one time. Bartley was “unsuccessfully discharged” from the Court Services Matrix Program for noncompliance. Tr. Vol. 2, p. 5. He failed to attend or to seek permission to reschedule probation appointments and failed to report to drug screening three times. Additionally, he violated his probation by working in an establishment

whose primary purpose was the sale of alcohol. On September 14, 2022, the State charged Bartley with a new offense, driving while suspended. As of November 1, 2022, Bartley owed two hundred and seventy-eight dollars for probation fees.

[5] On September 16, 2022, the State filed a Verified Petition to Revoke community corrections/probation. On November 1, 2022, during the probation revocation hearing, the trial court observed that Bartley was given opportunities to change his behavior, yet he did not take it seriously. Bartley argued that he was not successful in probation because the system failed to offer him more treatment options in lieu of incarceration. However, probation officer Ani Bridges testified that she waited to file a petition to revoke probation until she had exhausted the resources available to her. Tr. Vol. II p. 6. She stated that Bartley was assigned to attend Matrix classes which specifically focus on stimulant use, and he was also referred to treatment at Centerstone. *Id.* Officer Bridges testified that Bartley was argumentative, noting that Bartley did not believe that he should be drug screened. *Id.* at 7. The court found that Bartley continued to use drugs regularly, missed appointments, and committed a new criminal offense. Therefore, the court did not find Bartley a good candidate for continued probation. The court revoked Bartley's probation and ordered him to serve the previously suspended 354 days in the Department of Correction. The court gave Bartley credit for ninety days previously served. Bartley now appeals.

Discussion and Decision

- [6] First, we address Bartley’s argument that the sentence imposed following the revocation of his probation is inappropriate in light of his situation, character, and the nature of his offense. He argues that pursuant to [Indiana Appellate Rule 7\(B\)](#), the court should revise his sentence, accord him a drug addiction treatment option, and return him to supervision or remand to the trial court to reconsider appropriate sanctions. However, “the appellate evaluation of whether a trial court’s sanctions are ‘inappropriate in light of the nature of the offense and the character of the offender’ is not the correct standard to apply when reviewing a trial court’s actions in a post-sentence probation violation proceeding.” [Jones v. State](#), 885 N.E.2d 1286, 1290 (Ind. 2008) (quoting [Prewitt v. State](#), 878 N.E.2d 184, 187-88 (Ind. 2007)).
- [7] Instead, probation violation sanctions are subject to appellate review for abuse of discretion, which Bartley also cites in his brief. [Id.](#) at 188. Probation is a matter of grace left to trial court discretion. [Murdock v. State](#), 10 N.E.3d 1265, 1267 (Ind. 2014). An abuse of discretion occurs if the decision is against the logic and effect of the facts and circumstances before the court. [Prewitt v. State](#), 878 N.E.2d at 188. “Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed.” [Id.](#) “If this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” [Id.](#)
- [8] Probation revocation is a two-step process. First, the trial court must make a factual determination that the defendant violated a condition of probation.

Woods v. State, 892 N.E.2d 637, 640 (Ind. 2008). And violation of a single condition of probation is sufficient to revoke probation. *Gosha v. State*, 873 N.E.2d 660, 663 (Ind. Ct. App. 2007). Second, if a violation is found, then the trial court must determine the appropriate sanctions for the violation. *Woods*, 892 N.E.2d at 640. When a defendant violates a condition of his probation, the trial court may “[o]rder execution of all or part of the sentence that was suspended at the time of the initial sentencing.” Ind. Code § 35-38-2-3(h)(3).

[9] Bartley argues that the trial court abused its discretion when it ordered him to serve his previously suspended sentence in the Department of Correction because incarceration will not allow him to address his substance abuse issues. Bartley cites *Hoak v. State*, 113 N.E.3d 1209 (Ind. 2019), in support of his request that our court should consider sentencing options other than incarceration. Appellant’s Br. at 8. In *Hoak*, after considering whether the defendant’s sentence was inappropriate, the Supreme Court remanded the case to the trial court to determine whether Hoak was eligible for substance abuse treatment within community corrections. If possible, Hoak’s sentence was to be executed in community corrections, not incarceration. *Id.* at 1209-1210.

[10] *Hoak* is not applicable to the issue presented in this appeal because it did not address a probation revocation. Moreover, the instant case differs from *Hoak* in that Bartley was initially sentenced to complete substance abuse treatment while on probation. The trial court gave Bartley the opportunity to address his substance abuse issues and change his behaviors outside of prison. However, Bartley failed to comply with the conditions of his placements. Instead, Bartley

violated his terms and conditions eleven times, including committing Class A misdemeanor driving while suspended.¹ As a result, Bartley did not take advantage of the chances given to rehabilitate himself. Thus, we cannot say that the trial court abused its discretion when it revoked Bartley's probation and ordered him to serve his previously suspended sentence in the Department of Correction.

[11] Affirmed.

May, J., and Bradford, J., concur.

¹ On November 1, 2022, the same date as his probation revocation hearing, Bartley pleaded guilty as charged.