

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Sarah D. Nicholson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 14, 2021

Court of Appeals Case No.
21A-CR-693

Appeal from the Dubois Superior
Court

The Honorable Mark R.
McConnell, Judge

Trial Court Cause No.
19D01-1707-F5-719

Mathias, Judge.

[1] Sarah Nicholson was sentenced to 730 days in the Department of Correction following the Dubois Superior Court’s revocation of her probation. She now appeals her sentence, presenting two restated issues for review:

- I. Whether Nicholson was sentenced according to the terms of her plea agreement.
- II. Whether the trial court erred in denying Nicholson’s petition for sentence modification.

[2] Finding that the trial court did not err, we affirm.

Facts and Procedural History

[3] Nicholson had been on probation in connection with a 2016 conviction when, on February 12, 2018, she pleaded guilty to operating a vehicle while intoxicated and obstruction of justice, both as Level 6 felonies.¹ She and the State entered into a plea agreement, which addressed both her guilty plea and her 2016 probation.

[4] As to the latter, the plea agreement provided:

Defendant’s probation shall be revoked and terminated as unsuccessful. Defendant shall be sentenced to five hundred forty (540) days executed at the Indiana Department of Corrections. Defendant shall serve the first sixty (60) days at the Dubois County Security Center with the remaining four hundred eighty (480) days stayed so long as defendant enrolls in and successfully completes Drug Court Program. If the Defendant does not

¹ Nicholson was ordered to serve probation in 2016, under Cause No. 19D01-1604-F6-0325.

successfully complete and graduate from the drug court program, it shall be considered a violation of defendant's stayed sentence If defendant successfully completes and graduates from the Dubois County Drug Court Program, the stayed executed sentence shall be considered complete.

Appellant's App. pp. 27–28. Nicholson completed the Dubois County drug court program on April 6, 2020.² In turn, her previously stayed 480-day sentence—which was imposed following her 2016 conviction—was considered complete.

[5] The plea agreement also set forth the sentence Nicholson would serve in connection with her guilty plea:

Defendant shall be sentenced to seven hundred thirty-six (736) days executed at the Indiana Department of Correction Defendant shall receive credit for six (6) days already served leaving seven hundred thirty (730) days left to serve. Defendant shall be allowed to serve her executed sentences through the Dubois County Drug Court so long as defendant is admitted and remains eligible. If defendant is terminated from Drug Court defendant shall serve her executed sentence of seven hundred thirty (730) days at the Indiana Department of Corrections. If she successfully completes Drug Court defendant's sentence shall be modified, and defendant shall be placed on one (1) year of supervised probation. If defendant were to violate any term of defendant's probation defendant shall be sentenced to the

² Nicholson was set to graduate from the drug court program on April 6, 2020, but her official graduation hearing was delayed until May 4, 2020, due to the COVID-19 pandemic. Appellant's App. at 43.

Indiana Department of Corrections for seven hundred thirty (730) days.

Id. at 28. Thus, on April 20, 2020, in light of Nicholson’s graduation from the drug court program, the trial court modified her sentence to one year of supervised probation.

[6] Five months later, Nicholson admitted to violating the terms of her supervised probation. Rather than revoke her probation, the trial court extended it for ninety days. That same day, however, Nicholson registered a .324% blood alcohol level after taking a breathalyzer test, and the State immediately petitioned to revoke her probation.

[7] On January 15, 2021, after a dispositional hearing, the trial court revoked Nicholson’s probation and ordered her to serve 730 days in the DOC. On February 12, Nicholson filed a petition for sentence modification, which the court denied.

[8] She now appeals.

Plea Agreement

[9] Nicholson first argues that the 730-day sentence the trial court imposed after revoking her probation is inconsistent with the terms of her plea agreement. We do not agree.

[10] Generally, trial courts have broad discretion in setting conditions of probation. *Berry v. State*, 10 N.E.3d 1243, 1246 (Ind. 2014). But “[w]hen a trial court

accepts a plea agreement, it is bound by its terms.” *State v. Smith*, 71 N.E.3d 368, 370 (Ind. 2017). The court “is precluded from imposing any sentence other than required by the plea agreement,” and the court’s discretion is therefore limited. *Bennett v. State*, 802 N.E.2d 919, 921–22 (Ind. 2004). Because the terms of a plea agreement are contractual in nature, we are guided by contract interpretation principles. *Id.* We begin with the agreement’s plain language. *Id.*

[11] The plea agreement unambiguously states:

If [defendant] successfully completes Drug Court defendant’s sentence shall be modified, and defendant shall be placed on one (1) year of supervised probation. If defendant were to violate any term of defendant’s probation defendant shall be sentenced to the Indiana Department of Corrections for seven hundred thirty (730) days.

Appellant’s App. p. 28.

[12] Nicholson and the State agreed to those terms, and the trial court accepted the plea agreement. At that point, all three were bound by its terms. Indeed, at Nicholson’s probation revocation hearing, the court explained:

I believe that I am bound by the plea agreement. I don’t believe that I have any choice. I think the plea agreement is clear that if you violate the terms of that probation—and it specifically says if Defendant were to violate any term of Defendant’s probation, Defendant shall be sentenced to the Indiana Department of Correction for 730 days. That was your agreement. That was the agreement you’ve made, and you violated the terms of your probation twice. So, I feel I have no choice but to sentence you to the Indiana Department of Corrections for 730 days.

Tr. p. 27. The court then sentenced Nicholson “to 730 days at the Indiana Department of Corrections.” Appellant’s App. p. 47.

[13] Yet, Nicholson now asserts that “[w]hen she completed Drug Court, her sentence was modified to one-year of Supervised Probation; not the 730-days she would receive if her Drug Court effort had failed.” Appellant’s Br. at 14. Thus, she contends, “her maximum[] potential sentence” upon violating the terms of her probation “was 15-months.” *Id.*

[14] This argument lacks merit. The terms of Nicholson’s plea agreement are unambiguous: “If defendant were to violate any term of defendant’s probation defendant shall be sentenced to the Indiana Department of Corrections for seven hundred thirty (730) days.” Appellant’s App. p. 28. After Nicholson admitted to violating probation, the trial court ordered her to serve the sentence she agreed to—730 days in the DOC. We find no error in the court’s doing so.

Sentence Modification

[15] Nicholson next argues that the trial court abused its discretion in refusing to modify her sentence. We review a trial court’s decision on a motion for sentence modification for an abuse of discretion. *Gardiner v. State*, 928 N.E.2d 194, 196 (Ind. 2010). An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances or if the court misinterprets the law. *Blount v. State*, 22 N.E.3d 559, 564 (Ind. 2014).

[16] Nicholson observes that she “does not qualify to be sentenced to the [DOC],” and claims that the trial court should therefore have modified her sentence to prevent her from remaining incarcerated at the Dubois County Security Center. Appellant’s Br. at 11. We disagree.

[17] A trial court generally has no authority over a defendant after sentencing. *State v. Harper*, 8 N.E.3d 694, 696 (Ind. 2014). The General Assembly has given trial courts authority, under certain circumstances, to modify a defendant’s sentence, but courts may only modify a sentence “in a way in which it was authorized at the time of sentencing.” *Rodriguez v. State*, 129 N.E.3d 789, 797 (Ind. 2019). And, as mentioned, “a court is bound by the terms of the plea agreement at the time it accepts the plea.” *Id.* at 796.

[18] Having accepted Nicholson’s plea agreement, the trial court sentenced her according to its terms. The court had no discretion, on her request for a modification, to impose a different sentence that would have violated those terms. *See id.* Moreover, despite Nicholson’s suggestion that the court’s refusal to modify her sentence prevented her from getting the benefit of her bargain with the State, the court, in sentencing her pursuant to the plea agreement’s plain language, facilitated precisely what Nicholson bargained for. The court therefore did not abuse its discretion in denying her petition for sentence modification.

Conclusion

[19] For all of these reasons, we conclude that the trial court did not err in ordering Nicholson to serve 730 days in the DOC or in denying her petition to modify that sentence.

[20] **Affirmed.**

Tavitas, J., and Weissmann, J., concur.