

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert Charles Jones,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 11, 2023

Court of Appeals Case No.
23A-CR-1757

Appeal from the Hamilton
Superior Court

The Honorable Michael A. Casati,
Judge

Trial Court Cause No.
29D01-2008-F3-4934

Memorandum Decision by Judge Tavitas
Judges Pyle and Foley concur.

Tavitas, Judge.

Case Summary

- [1] Robert Jones admitted to violating a condition of his probation, and as a sanction, the trial court imposed six years of Jones’s previously suspended sentence to be served in the Department of Correction (“DOC”). Jones argues that the trial court abused its discretion by ordering this sanction. We disagree and affirm.

Issue

- [2] Jones raises one issue on appeal, which we restate as whether the trial court abused its discretion by imposing six years of Jones’s previously suspended sentence to be served in the DOC as a sanction for Jones’s probation violation.

Facts

- [3] This appeal stems from several acts of domestic violence that Jones perpetrated against his then-wife. On May 6, 2020, in Cause No. 29D06-2005-CM-2774 (“Cause No. 2774”), the State charged Jones with Count I: domestic battery, a Class A misdemeanor, against his wife.
- [4] On August 18, 2020, in Cause No. 29D06-2008-F3-4934 (“Cause No. 4934”), the State charged Jones with four additional offenses against his wife: Count I: criminal confinement, a Level 3 felony; Count II: domestic battery resulting in serious bodily injury, a Level 5 felony; Count III: strangulation, a Level 6 felony; and Count IV: intimidation, a Level 6 felony.

[5] On January 8, 2021, Jones and the State reached plea agreements in both cases. In Cause No. 2774, Jones pleaded guilty to Count I: domestic battery, a Class A misdemeanor, and agreed to serve a sentence of 365 days on probation and complete a batterer’s intervention program. In Cause No. 4934, Jones agreed to plead guilty to Count I: criminal confinement, a Level 3 felony, and serve a nine-year sentence, with eight years and 276 days suspended, plus three years of probation, consecutively to Jones’s sentence in Cause No. 2774. In exchange, the State agreed to dismiss the remaining charges. The trial court accepted both plea agreements.

[6] In his pre-sentence investigation interview in Cause No. 4934, Jones indicated that there was a “possibility alcohol influenced [him] to lose control.” Appellant’s App. Vol. II p. 74. Jones also stated that he “made the mistake of [his] lifetime,” and promised to complete probation and “never do anything to get [him] arrested again.” *Id.* at 75. The trial court sentenced Jones pursuant to the terms of the plea agreements. Additionally, as a condition of Jones’s probation, Jones was required to: (1) complete an alcohol treatment program; and (2) obey the law.

[7] On October 3, 2022, the State alleged that Jones violated two conditions of his probation in Cause No. 4934: (1) Jones committed new offenses against his wife, including domestic battery, a Level 5 felony; battery, a Level 5 felony; and strangulation, a Level 6 felony, and was charged accordingly in Cause No. 49D31-2209-F5-26414 (“Cause No. 26414”); and (2) Jones committed the new

offenses while under the influence of alcohol, despite his treatment program requiring abstinence.

[8] The trial court held a fact-finding hearing on July 6, 2023. Jones admitted to violating the conditions of his probation by committing new offenses in Cause No. 26414. The State then elected not to proceed on its allegation that Jones committed the new offenses while under the influence of alcohol.

[9] The trial court next held a dispositional hearing regarding the probation violation. Jones requested that the trial court sentence him to work release instead of imposing his previously suspended sentence in Cause No. 4934. Jones argued that: he had no criminal history prior to his 2020 offenses against his wife; he and his wife had a “toxic” relationship and were now divorced; Jones accepted responsibility for his offenses; and Jones was at low risk to reoffend. Tr. Vol. II p. 13.

[10] The trial court imposed six years of Jones’s previously suspended sentence to be served in the DOC as a sanction for Jones’s probation violation. In ordering this sentence, the trial court stated, “I can’t think of anything more serious in terms of a violation of probation on a domestic violence case than committing another felony of domestic violence against the same victim.” *Id.* at 16. Jones now appeals.

Discussion and Decision

- [11] Jones argues that the trial court abused its discretion by imposing six years of his previously suspended sentence to be served in the DOC. We are not persuaded.
- [12] ““Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.”” *Killebrew v. State*, 165 N.E.3d 578, 581 (Ind. Ct. App. 2021) (quoting *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)), *trans. denied*. If the trial court finds a probation violation, it “must determine the appropriate sanctions for the violation.” *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). The trial court may impose any of the following sanctions:
- (1) Continue the person on probation, with or without modifying or enlarging the conditions.
 - (2) Extend the person’s probationary period for not more than one (1) year beyond the original probationary period.
 - (3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Ind. Code § 35-38-2-3(h).

- [13] “While it is correct that probation may be revoked on evidence of violation of a single condition, the selection of an appropriate sanction will depend upon the severity of the defendant’s probation violation, which will require a determination of whether the defendant committed a new criminal offense.” *Heaton*, 984 N.E.2d at 618. “In appeals from trial court probation violation

determinations and sanctions, we review for abuse of discretion.” *Id.* at 616 (citing *Prewitt*, 878 N.E.2d at 188). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances,” *id.* (citing *Prewitt*, 878 N.E.2d at 188), “or when the trial court misinterprets the law,” *id.* (citing *State v. Cozart*, 897 N.E.2d 478, 483 (Ind. 2008)).

[14] Here, Jones was charged with several acts of domestic violence against his then-wife in Cause Nos. 2774 and 4934. Jones received a favorable plea agreement and promised not to commit future offenses against his wife. His sentence included a term of probation, the conditions of which required Jones to obey the law. Jones, however, violated this condition by again committing acts of domestic violence against his wife.

[15] Jones argues that the trial court abused its discretion by imposing six years of his previously suspended sentence to be served in the DOC because probation includes certain treatment programs for substance abuse that are not available in prison. Jones suggests that alcohol influenced his behavior; however, Jones was already given a chance to address his substance abuse as a part of his sentence in Cause No. 4934. Moreover, as the trial court observed, Jones violated the conditions of his probation by committing similar acts of domestic violence against the same victim, his wife. Under these circumstances, we cannot say that the trial court abused its discretion by imposing six years of Jones’s previously suspended sentence.

Conclusion

[16] Jones violated the conditions of his probation by committing similar acts of domestic violence against the same victim. The trial court did not abuse its discretion by imposing six years of Jones's previously suspended sentence to be served in the DOC as a sanction for Jones's probation violation. Accordingly, we affirm.

[17] Affirmed.

Pyle, J., and Foley, J., concur.