

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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I.N.,

*Appellant-Respondent,*

v.

State of Indiana,

*Appellee-Petitioner.*

December 5, 2022

Court of Appeals Case No.  
22A-JV-588

Appeal from the  
Marshall Circuit Court

The Honorable  
Curtis D. Palmer, Judge.

Trial Court Cause No.  
50C01-2201-JD-2

**Foley, Judge.**

- [1] After a juvenile court declared I.N. to be delinquent, it placed him on probation for a year. I.N. did not comply with the terms of his probation. I.N. raises a

lone issue: whether the juvenile court abused its discretion when it modified its dispositional decree and ordered I.N. to serve time in the Department of Correction (“DOC”). We find no abuse of discretion and, accordingly, affirm the judgment of the juvenile court.

### **Facts and Procedural History**

[2] Between January and May 2020, I.N. faced the following charges<sup>1</sup>: Count I, resisting law enforcement, a Class A misdemeanor if committed by an adult; Count II, criminal mischief, a Class B misdemeanor if committed by an adult; Count III, leaving home without the permission of a parent or guardian; Count IV, truancy; Count V, leaving home without the permission of a parent or guardian; Count VI, resisting law enforcement, a Class A misdemeanor if committed by an adult; Count VII, battery, a Class B misdemeanor if committed by an adult; and Count VIII, disorderly conduct, a Class B misdemeanor if committed by an adult.

[3] I.N. admitted to several of the counts, and the juvenile court adjudicated I.N. as a delinquent. I.N. admitted to the following counts: Count I, resisting law enforcement, a Class A misdemeanor if committed by an adult; Count III, leaving home without the permission of a parent or guardian; Count IV, truancy; Count V, leaving home without the permission of a parent or

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<sup>1</sup> The State filed its initial delinquency petition on January 6, 2020, and then amended it on March 31, 2020, and again, on May 15, 2020.

guardian; Count VI, resisting law enforcement, a Class A misdemeanor if committed by an adult; and Count VII, battery, a Class B misdemeanor if committed by an adult. On July 20, 2020, the trial court entered its dispositional order. The juvenile court placed I.N. on probation for a year<sup>2</sup> and ordered I.N. to participate in a family support services program, as well as to pay costs and fines.

[4] The State filed a motion to revoke probation on October 21, 2020. I.N. admitted to violating the terms of his probation on March 3, 2021, and the trial court extended the probation period by three months and imposed thirty days of house arrest. On November 1, 2021, the State filed a second motion to revoke probation. As with the first motion to revoke, I.N.'s violations of the terms of his probation included positive drug tests for THC and extended periods of truancy. Moreover, I.N. failed to report to mandatory monthly appointments with his probation officer in May, July, August, and September of 2021. I.N.'s participation in the family services program was terminated unsuccessfully due to his non-compliance.

[5] In response to the second motion to revoke, I.N. admitted to the allegations that he had failed to pay his costs and fees,<sup>3</sup> that he had tested positive for THC,

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<sup>2</sup> The juvenile court further ordered five days to be served in a secure juvenile detention facility, all suspended, but that aspect of the dispositional order is not relevant to this appeal.

<sup>3</sup> The juvenile court did not alter I.N.'s disposition on these grounds, as there was no evidence that I.N. was able to pay the fines and costs.

and that he was not attending school, but contested the allegations that I.N. failed to attend his mandatory monthly meetings with the probation department. At the conclusion of the presentation of evidence, the juvenile court stated:

[T]wo big things for me; the failing the drug test because you've already been revoked once for failing a drug test for [m]arijuana and so, this is your second time for that; . . . and the other being [] not going to school. I'm certainly gonna [sic] find that the other allegations in the Motion to Revoke . . . are[,] in fact, true as well; and I am going to revoke your probation. You don't like probation, probation[s] not working for out . . . well for you, Family Support Services hasn't been of any value to you; . . . so there's no reason to keep you on probation. Ah – you don't go to school, you don't quit using [m]arijuana; you don't show up for your appointments, there's no point for you being on probation from this point forward . . . . So, I am gonna [sic] send you to the Department of Corrections. And hopefully you can get some academic credits there to help you out.

Tr. Vol. II p. 21. The juvenile court terminated his probation unsuccessfully and ordered I.N.'s commitment to DOC. This appeal ensued.

## **Discussion and Decision**

[6] I.N. argues that the juvenile court abused its discretion when it committed I.N. to the DOC. Specifically, I.N. argues that there were less “restrictive means for I.N.” Appellant's Br. p. 6. “The choice of the specific disposition of a juvenile adjudicated to be delinquent is a matter within the sound discretion of the juvenile court.” *A.C. v. State*, 144 N.E.3d 810, 812–13 (Ind. Ct. App. 2020) (citing *J.S. v. State*, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008)). “The juvenile

court is accorded wide latitude and great flexibility in its dealings with juveniles.” *Id.* “This discretion is, however, subject to the statutory considerations of the welfare of the child, the safety of the community, and the policy of favoring the least harsh disposition.” *Id.* (citing *M.C. v. State*, 134 N.E.3d 453, 458 (Ind. Ct. App. 2019); Ind. Code § 31-37-18-6 (1997) (setting forth factors juvenile court must consider when entering a dispositional decree)). “We will reverse a juvenile disposition only for an abuse of discretion, which occurs when the juvenile court’s action is clearly erroneous and against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual inferences drawn therefrom.” *Id.* (citing *C.C. v. State*, 831 N.E.2d 215, 217 (Ind. Ct. App. 2005)).

[7] We apply the same standards with respect to the revocation of probation for minors as we do for adults. *See, e.g., T.W. v. State*, 864 N.E.2d 361, 364 (Ind. Ct. App. 2007). “A probation revocation proceeding is in the nature of a civil proceeding, and, therefore, the alleged violation need be proved only by a preponderance of the evidence.” *Id.* (citing *J.J.C. v. State*, 792 N.E.2d 85, 88 (Ind. Ct. App. 2003)). “Violation of a single condition of probation is sufficient to revoke probation.” *Id.* “As with other sufficiency issues, we do not reweigh the evidence or judge the credibility of witnesses.” *Id.* “We look only to the evidence which supports the judgment and any reasonable inferences flowing therefrom.” *Id.* “If there is substantial evidence of probative value to support the trial court’s decision that the probationer committed any violation, revocation of probation is appropriate.” *Id.*

[8] I.N.'s argument is essentially that there were less restrictive placements available to the trial court than the DOC, which, we note, is always true when someone is committed to the DOC. I.N. concedes, however, that:

it cannot be denied that I.N. had been given ample opportunity by the trial court. Not only had the trial court imposed only probation in the original dispositional decree, but the trial court had then attempted a less stringent means of punishment for I.N.'s first violation of probation by simply extending probation and imposing thirty (30) days of house arrest.

Appellant's Br. p. 7. Neither does I.N. repudiate the findings that he violated multiple terms of his probation on multiple occasions. Nevertheless, I.N. argues, he should have been given more chances prior to the juvenile court terminating probation and ordering his commitment to the DOC. I.N. makes no argument, however, that the juvenile court's decision is clearly erroneous and against the logic and effect of the facts and circumstances before it (or the reasonable, probable, and actual inferences drawn therefrom). Absent such a showing, our standard of review commits us to deferring to the juvenile court's determination. Accordingly, we conclude that the juvenile court did not abuse its discretion when it committed I.N. to the DOC.

[9] Affirmed.

Robb, J. and Mathias, J., concur.