

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Michael C. Jedlicka, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 19, 2023

Court of Appeals Case No.
23A-CR-212

Appeal from the
Tippecanoe Superior Court

The Honorable
Steven P. Meyer, Judge

Trial Court Cause No.
79D02-0508-FB-47

Memorandum Decision by Judge Foley
Chief Judge Altice and Judge May concur.

Foley, Judge.

[1] Michael C. Jedlicka Jr. (“Jedlicka”) asserts on appeal that the trial court abused its discretion in revoking his probation. We cannot agree. Jedlicka admitted to violating the terms of his probation: using and testing positive for both amphetamine and methamphetamine. The trial court initially stayed its sanction for the violations on the condition that Jedlicka engage in medical treatment services. Instead, he proceeded to violate the terms of his probation again, missing multiple mandatory appointments and failing to submit to required drug screenings. The trial court did not err. We affirm.

Facts and Procedural History

[2] Jedlicka was convicted of ten counts of felony burglary in 2006. For his crimes, he received a sentence of forty years (twenty-six executed in the Department of Correction, four executed in community correction, and ten years suspended to probation). By May 20, 2022, Jedlicka had completed the executed portions of his sentence. That day, the State filed a petition alleging that Jedlicka was in violation of the terms of his probation. Jedlicka admitted the violations—he used amphetamine and methamphetamine on two separate occasions—and the trial court sanctioned him. The trial court stayed the ninety-day community corrections sentence on the understanding that Jedlicka would contact Meridian Health Services and engage in treatment.

[3] By August 2022, however, the State had filed a second petition alleging probation violations. This time, Jedlicka failed to submit drug screens on four separate occasions and failed to appear for three probation appointments. A third petition followed on September 12, 2022, alleging a failed drug screening

revealing the presence of both amphetamine and methamphetamine once again. By October, Jedlicka was no longer attending Meridian Health Services.

[4] At the subsequent evidentiary hearing, Jedlicka's probation officer testified, confirming that Jedlicka failed to appear for multiple drug screens. On another occasion, Jedlicka was present for a probation meeting and instructed to take a drug test, which he refused. The probation officer further explained that Jedlicka had missed probation meetings three times in the month of August. The missed appointments were sometimes, but not always, accompanied by an implausible excuse.

[5] Jedlicka himself admitted to leaving the probation meeting without taking the drug test as instructed and admitting to relapsing and thereby failing the drug screening that resulted in the third petition. The trial court found Jedlicka in violation of the terms of his probation for failing to report to meetings, failing to take numerous drug tests, and failing some of the drug tests he did take. The trial court further noted the proximity of the violations to the prior violations for which it had stayed its sanction, as well as the apparent inefficacy of treatment and Jedlicka's predilection for excuses. The trial court ordered five years of the previously suspended sentence to be served in the Department of Correction and indicated that the remaining probation time would be shown as unsuccessfully discharged. Jedlicka now appeals.

Discussion and Decision

- [6] “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013) (quoting *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). “It is within the discretion of the trial court to determine probation conditions and to revoke probation if the conditions are violated.” *Id.* “In appeals from trial court probation violation determinations and sanctions, we review for abuse of discretion.” *Id.* “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances,” *id.*, “or when the trial court misinterprets the law.” *Id.* (citing *State v. Cozart*, 897 N.E.2d 478, 483 (Ind. 2008)). “We will consider all the evidence most favorable to supporting the judgment of the trial court without reweighing that evidence or judging the credibility of the witnesses.” *Holmes v. State*, 923 N.E.2d 479, 483 (Ind. Ct. App. 2010) (quoting *Monroe v. State*, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009)).
- [7] “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.” *Heaton*, 984 N.E.2d at 616 (citing *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 sanctions for the violation.” *Id.*

[If the trial court] finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may . . . [o]rder execution of all or part of the sentence that was suspended at the time of initial sentencing.

Ind. Code § 35-38-2-3(h)(3).

[8] “[E]ven a probationer who admits the allegations against him must still be given an opportunity to offer mitigating evidence suggesting that the violation does not warrant revocation.” *Woods*, 892 N.E.2d at 640. That said, the trial court is not obliged to balance aggravating and mitigating factors when deciding whether to revoke probation and in imposing a sentence. *Porter v. State*, 117 N.E.3d 673, 675 (Ind. Ct. App. 2018). Moreover, it is well settled that a single violation of a condition of probation is sufficient to permit the trial court to revoke probation. *Pierce v. State*, 44 N.E.3d 752, 755 (Ind. Ct. App. 2015).

[9] The trial court was well within its discretion to revoke Jedlicka’s probation and in its determination of a sanction. Notably, Jedlicka committed multiple violations, the occurrences of which were amply corroborated. Moreover, the trial court demonstrated leniency for the first petition alleging violations of the terms of probation: it stayed its sanction, providing Jedlicka with an opportunity to demonstrate that he was serious about receiving treatment for his drug abuse issues and complying with the terms of his probation. Jedlicka did not avail himself of that opportunity. The violations appear to be the latest in a long pattern of illicit drug use, and treatment, incarceration, community corrections, and now probation do not appear to have altered that pattern. We also recognize the trial court’s clear frustration with the frequency and poor quality of Jedlicka’s excuses for his assorted variations. Those excuses demonstrate a lack of accountability.

[10] The sum total of Jedlicka's arguments are: (1) he has not failed any additional drug tests since posting bond on the pending petitions to revoke probation; and (2) he previously completed four years in community corrections with no violations. He offers no explanation for how those facts dictate a conclusion that the trial court abused its discretion in revoking his probation. And it may well be that Jedlicka demonstrates some rehabilitative promise. But it is also undeniable that he repeatedly violated the terms of his probation. We entrust the delicate balance of potential against a probationer's violations to our trial courts, and, here, Jedlicka has not persuaded us to re-contemplate that balance. The trial court did not abuse its discretion when it revoked Jedlicka's probation.

[11] Affirmed.

Altice, C.J., and May, J., concur.