

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Cody A. Morrison,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 7, 2023

Court of Appeals Case No.
22A-CR-2100

Appeal from the Noble Superior
Court

The Honorable Steven T. Clouse,
Judge

Trial Court Cause No.
57D01-1912-F6-396

Memorandum Decision by Judge Weissmann
Judges Bailey and Brown concur.

Weissmann, Judge.

- [1] Cody Morrison admitted to violating the terms of his probation by skipping probation appointments and failing to pay child support. Based on these violations, the trial court revoked Morrison's probation and ordered him to serve the remaining two years of his sentence in prison. Morrison challenges the sanction as too harsh given the nature of his violations. Finding the trial court did not abuse its discretion, we affirm.

Facts

- [2] Morrison pleaded guilty to three counts of Level 6 felony nonsupport of a dependent child and was sentenced to two years in jail and two years of supervised probation, to be served on work release under Indiana Code § 35-46-1-5(a). The terms of Morrison's probation generally required him to report to his probation officer as directed, make weekly child support payments, and pay off his child support arrearage over the course of his probationary term.
- [3] A little more than 6 months after his plea, Morrison violated the terms of community corrections and was returned to jail. Upon his release, Morrison violated the terms of his probation almost immediately. About a week into his probation, he began missing required telephonic check-ins with his probation officer. Morrison also failed to attend his first in-person appointment, despite it being rescheduled and relocated to a location closer to Morrison's home to

accommodate his transportation issues. Additionally, though Morrison made some gifts to his children, he failed to pay his court-ordered child support payments, even when he had a job.

- [4] The State petitioned to revoke Morrison’s probation, and Morrison admitted he had violated his probation. As a sanction, the trial court revoked Morrison’s probation and ordered him to serve his remaining two-year sentence in prison. He now appeals, claiming only that the sanction was too harsh.

Discussion and Decision

- [5] Probation is not an entitled right. Instead, it is a “matter of grace left to trial court discretion.” *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). Accordingly, we will reverse a trial court’s decision to revoke probation only for an abuse of that discretion. “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances, or when the trial court misinterprets the law.” *Id.*
- [6] Morrison’s conditions of his probation were straightforward and uncomplicated. Morrison was required to attend his scheduled probation appointments, pay child support, and satisfy his child support arrearage before his probationary term ended. Yet, by the time his probation was revoked, Morrison had not complied with a single condition of his probation.

[7] We acknowledge that Morrison's lack of stable transportation and difficulty maintaining a cellphone complicated his ability to attend scheduled probation appointments. However, Morrison's track record may explain why the court was unwilling to extend further grace. As documented in his first appeal, Morrison had to be extradited twice to face the original charges. *See Morrison v. State*, 2021 WL 4186451, *1 (Ind. Ct. App. 2021) (mem.). He served little more than 6 months in community corrections before being removed from the program for rule violations. After his release to probation, he missed his first appointment and failed to check in telephonically. Nonetheless, his probation officer scheduled a new appointment and even moved the meeting location to be closer to Morrison's home. Still, Morrison failed to show up or explain his absences. Ultimately, by the time his probation was revoked Morrison had developed a consistent record for missed probation appointments, either by not calling in, calling in late, or failing to appear in-person.

[8] In support of his claim that he deserved greater leniency, Morrison notes that he advanced his rehabilitation by securing a house for himself and his children during the short time he was on probation. Although we commend Morrison for his efforts which will go a long way towards his rehabilitation, we note that this likely came at the expense of meeting his child support and arrears obligations. That said, under the law, the trial court need not consider mitigating circumstances when determining the appropriate punishment for

violating probation. *Treece v. State*, 10 N.E.3d 52, 59 (Ind. Ct. App. 2014).

Considering the several violations and Morrison's prior community corrections revocation, Morrison has failed to carry his burden of showing an abuse of discretion here.

[9] Affirmed.

Bailey, J., and Brown, J., concur.