

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Montez L. Ellington,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 16, 2021

Court of Appeals Case No.
20A-CR-1733

Appeal from the Vigo Superior
Court

The Honorable Sarah K. Mullican,
Judge

Trial Court Cause No.
84D03-1806-F4-1978

Najam, Judge.

Statement of the Case

- [1] Montez Ellington appeals the trial court's revocation of his placement on home detention. Ellington raises a single issue for our review, namely, whether the trial court abused its discretion when it revoked his home detention and ordered him to serve the balance of his sentence in the Department of Correction.
- [2] We affirm.

Facts and Procedural History

- [3] In March 2019, Ellington pleaded guilty to two counts of unlawful possession of a firearm by a serious violent felon, Level 4 felonies. The trial court accepted Ellington's guilty plea and sentenced him to concurrent six-year sentences, with four years executed and two years suspended. The trial court ordered Ellington to serve his four-year executed sentence with two years on work release followed by two years on home detention.
- [4] In October, the State filed a petition to revoke Ellington's placement on work release. In that petition, the State alleged that Ellington had committed several violations, including testing positive for THC and synthetic cannabinoids. Ellington admitted to violating the terms of his placement, and the trial court ordered him to be placed on home detention at Salvaged Lives Life Center ("the Center"), a sober living facility, for two years.
- [5] In April 2020, the State filed a petition to revoke Ellington's placement on home detention. The State had been notified by someone at the Center that

Ellington was being “kicked out” of the facility for violating the rules, including ingesting synthetic marijuana. Appellant’s App. Vol. II at 124. At the hearing on the State’s petition, Ellington admitted to the violations. The trial court revoked his placement on home detention and ordered him to serve the balance of his sentence, four years, in the Department of Correction. This appeal ensued.

Discussion and Decision

- [6] Ellington appeals the trial court’s order that modified his placement from community corrections to the Department of Correction. Community corrections programs are alternatives to commitment to the Department of Correction. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). Placement in such programs is at the sole discretion of the trial court. *Id.* Furthermore, a defendant is not entitled to these alternatives; rather, such placement is a “matter of grace” and a “favor, not a right.” *Id.*
- [7] We review a trial court’s revocation of the defendant’s community corrections placement for an abuse of discretion. *Bennett v. State*, 119 N.E.3d 1057, 1058 (Ind. 2019). An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances. *Id.* When reviewing a revocation of community corrections placement, we “consider all the evidence most favorable to supporting the judgment of the trial court” and do not reweigh the evidence or judge the credibility of witnesses. *Cox*, 706 N.E.2d at 551. So long as there is “substantial evidence of probative value to

support the trial court’s conclusion” that the defendant violated any term of his placement in community corrections, we will affirm the trial court’s decision to revoke that placement. *Id.*

[8] Ellington contends that the trial court abused its discretion when it revoked his placement on home detention. Ellington does not dispute that he violated conditions of his placement—indeed, he admitted to the State’s alleged violations. Rather, Ellington asserts that the trial court abused its discretion when it revoked his placement because his relapse is understandable in the context of his history of substance abuse dating back to his childhood.

[9] But Ellington’s argument merely asks us to reweigh the evidence on appeal. We cannot do so. *Cox*, 706 N.E.2d at 551. It was the trial court’s prerogative not to discount Ellington’s use of synthetic marijuana in light of his history of substance abuse. Indeed, as the State points out, this violation “was not simply a one-time mistake” but an example of “a pattern of noncompliance” with prior alternative sentencing options. Appellee’s Br. at 9. We therefore cannot say the trial court abused its discretion when it revoked Ellington’s placement on home detention.

[10] Affirmed.

Riley, J., and Crone, J., concur.