

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Shyanna M. Roberts,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 21, 2023

Court of Appeals Case No.
23A-CR-1002

Appeal from the Bartholomew
Circuit Court

The Honorable Kelly S. Benjamin,
Judge

Trial Court Cause No.
03C01-2007-F6-3593

Memorandum Decision by Judge Brown
Judges Vaidik and Bradford concur.

Brown, Judge.

[1] Shyanna M. Roberts appeals the revocation of her probation. We affirm.

Facts and Procedural History

[2] On July 29, 2020, the State charged Roberts with: Count I, possession of methamphetamine as a level 6 felony; Count II, unlawful possession of a syringe as a level 6 felony; and Count III, driving while suspended as a class A misdemeanor. In April 2021, Roberts pled guilty to Count II, unlawful possession of a syringe as a level 6 felony. The court dismissed the remaining counts, sentenced her to 730 days, gave her credit for sixty days, and suspended the remainder of the sentence to probation.

[3] On June 25, 2021, the State filed a Verified Petition to Revoke Probation alleging that Roberts committed the offenses of possession of methamphetamine as a level 6 felony, unlawful possession of a syringe as a level 6 felony, and possession of marijuana as a class B misdemeanor on June 18, 2021, in Jackson County, Indiana, under cause number 36C01-2106-F6-278. On October 28, 2021, the court entered an order finding that Roberts admitted violating the terms of her probation by committing possession of methamphetamine on June 18, 2021, and accepting the agreement of the parties to place Roberts back on probation under the same terms and conditions previously ordered.

[4] On September 29, 2022, the State filed a Second Verified Petition to Revoke Probation alleging that Roberts failed to complete recommended treatment and failed to report to a scheduled appointment on September 15, 2022.

[5] On December 15, 2022, the court held a hearing. Bartholomew County Probation Officer Stacey Innie testified that Roberts violated her probation by failing to complete a recommended treatment program. She stated she received reports in March that Roberts was missing appointments at Centerstone, her “chart” was closed in April 2022, “they were going to do a rapid reentry,” “they opened her chart,” Roberts “didn’t show up,” and “then they closed her chart out.” Transcript Volume II at 8. She also testified that she did not have any contact with Roberts since July 20th and Roberts missed appointments with her on September 15th and October 18th. On cross-examination, when asked why she had not contacted her probation officer since July, Roberts answered: “Well, we had that appointment set up so . . . and I just . . . I honestly spaced it with everything that’s going on and I figured, you know that . . . (Inaudible) to getting ahold of her. Anyways . . . so I . . . I honestly can’t answer that. I just had a lot going on.” *Id.* at 17.

[6] The court found Roberts violated the terms of her probation by failing to attend all of her appointments and failing to complete her substance abuse evaluation and treatment and scheduled a dispositional hearing for February 2, 2023. On February 2, 2023, the court entered an order finding that Roberts’s counsel informed it that Roberts was in the TARA Treatment Center and requested a continuance, granting the continuance, and scheduling the dispositional hearing for March 6, 2023.

[7] On February 9, 2023, the State filed an Amended Second Verified Petition to Revoke Probation alleging that Special Condition 6 of her probation required

Roberts to obtain a substance abuse evaluation and follow the recommendation of the evaluation and that she left residential treatment on January 29, 2023, and February 4, 2023. It also alleged that Condition 7 prohibited her from possessing or using alcohol or controlled substances and that she used methamphetamine and alcohol as evidenced by drug screens given on November 29, 2022, and December 15, 2022.

[8] On April 6, 2023, the court held a hearing. Stacey Harry, the supervisor for adult probation at Bartholomew County Court Services, testified that Roberts was recommended to attend and comply with treatment at the TARA Treatment Center, failed to complete that treatment, was “discharged against staff advice” and left on her own on January 29th, and left treatment again against staff advice on February 4th. *Id.* at 31. When asked if there was a reason why Roberts left on February 4th, she answered:

I have a note from them that prior to leaving she'd received several accountability notice[s] for breaking the rules, such as inviting her boyfriend to a meeting that clients attend, fraternizing with a male at another meeting and receiving his phone number and sleeping on a couch. She was addressed by on-call clinical staff that she would need to follow the rules, but [Roberts] stated she would rather leave treatment. She was not receptive to intervention or feedback.

Id. at 32. Harry also testified that she received “an email from TASC that [Roberts] revoked all of her releases of information when she was there in February of 2023, so that they could not, no longer correspond with us about the status of her treatment.” *Id.* at 36.

[9] Roberts acknowledged that she used alcohol and methamphetamine as evidenced by drug screens on November 29, 2022, and December 15, 2022. She asserted she left the TARA treatment facility on the 29th because she “was just being triggered and they kept writing [her] up for stuff and like for [her] medication” and she “kept telling them it was making [her] drowsy.” *Id.* at 40. With respect to leaving on February 4th, she testified that she told “them that [she] was just gonna leave and . . . was gonna try to find somewhere else to go.” *Id.* at 41. She also testified that she went to Wooded Glenn. On cross-examination, Roberts indicated that she was at Wooded Glenn for a week until she had a verbal altercation with someone, she did not leave on her own, and “[t]hey dropped [her] off at a truck stop at 9 o’clock at night.” *Id.* at 42.

[10] The court found that Roberts violated the conditions of probation as alleged under the Amended Second Verified Petition to Revoke Probation by leaving residential treatment on January 29, 2023, and February 4, 2023, by using methamphetamine, and testing positive for prohibited substances in November and December 2022.

[11] Harry then testified that she and Probation Officer Innie recommended that Roberts serve some or all of her suspended sentence. Roberts testified that she was in Family Recovery Court, “[t]hey found [her] in contempt,” and she would like to continue there and go back to “TASC.” *Id.* at 50.

[12] The court stated:

When I'm listening to this and the opportunities that you've had, one of the things I'm assuming Family Recovery Court was trying to help you with, was take accountability. And every place that you went, Centerstone, didn't like the recommendations so didn't follow what they wanted you to do so you left. Then you go to, and you're unsuccessfully discharged due to lack of engagement. You go to TARA, you have issues with their rules. You leave. You get Family Recovery Court involved to actually get you back in, which was a blessing. But you go back and do the same type of conduct, and end up leaving again. Wooden Glenn, go there end up not following that as well. Leave there. TASC, revoke the releases so people can actually know what you're doing. Not appropriate. Absolutely not appropriate for probation and Family Recovery Court. Neither one of those would have you do that and you know that. So that's not appropriate, so that tells me number one (1) you don't want to follow any of the rules that someone wants you to . . . [t]o try to make you better. In three or four different places. There's nowhere else to take you. You're going to have to do it on your own if you don't want help. Revoking a release? Really? You can't do that, and you did. So that tells me you don't really want to do what people are trying to guide you to. The experts who know. You have a whole case management system around you in a Problem Solving Court to assist you with that, but you want to do your own thing. So if you want to do your own thing then you're going to have to do it . . . on your own, and maybe then you'll take it seriously, but you're obviously not taking the advice of everyone around you. So there is no reason to put you back on probation because you're not listening, you're not . . . doing it and you're making excuses. For everything. Even your sponsor, not a great sponsor. It appears you think everyone let you down, but you need to look in a mirror. You need to be accountable. You have to have respect for other people and the programs, and what they're trying to help you with, and if you don't listen . . . it's not gonna work. The Court is going to order that she serve

three hundred sixty (360) days to the Bartholomew County Jail. She had six hundred seventy (670) remaining.

Id. at 53-54. The court ordered that Roberts serve 360 days of her previously suspended sentence in the Bartholomew County Jail.

Discussion

[13] Roberts asserts she made substantial efforts to comply with her probation requirements despite falling short of completing a substance use treatment program. She contends TARA's unwillingness to work with her on problematic side effects of her medication required her to look at other substance treatment options. She also argues "[t]he stress of balancing probation, pregnancy, and a DCS case pulled her in many directions, and because of that she did 'space' her probation appointment in Fall 2022." Appellant's Brief at 8.

[14] Ind. Code § 35-38-2-3(h) provides:

If the 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 impose one (1) or more 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.

[15] We review trial court probation violation determinations and sanctions for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013) (citing *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). The Indiana Supreme Court has explained that “[o]nce a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed” and that, “[i]f this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” *Prewitt*, 878 N.E.2d at 188. When reviewing an appeal from the revocation of probation, we consider only the evidence most favorable to the judgment, and we will not reweigh the evidence or judge the credibility of the witnesses. *Vernon v. State*, 903 N.E.2d 533, 536 (Ind. Ct. App. 2009), *trans. denied*. As long as the proper procedures have been followed in conducting a probation revocation hearing, the trial court may order execution of a suspended sentence upon a finding of a violation by a preponderance of the evidence. *Goonen v. State*, 705 N.E.2d 209, 212 (Ind. Ct. App. 1999).

[16] The record reveals that, in October 2021, Roberts admitted to violating the terms of her probation by committing possession of methamphetamine on June 18, 2021, and the court placed Roberts back on probation. After the State filed a second petition to revoke probation, Probation Officer Innie testified that Roberts violated her probation by failing to complete a recommended treatment program and missed appointments with her. After the court granted Roberts a continuance because she was in the TARA Treatment Center and the State filed

a second amended petition to revoke probation, Harry testified that Roberts left treatment on January 29th and February 4th. Roberts acknowledged that she used alcohol and methamphetamine as evidenced by drug screens on November 29, 2022, and December 15, 2022.

[17] In light of the record, we cannot say the trial court abused its discretion in revoking Roberts's probation and ordering that she serve 360 days of her previously suspended sentence of 670 days.

[18] For the foregoing reasons, we affirm the trial court's order.

[19] Affirmed.

Vaidik, J., and Bradford, J., concur.