

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Tamara Lucas,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 6, 2022

Court of Appeals Case No.
21A-CR-2881

Appeal from the Shelby Superior
Court

The Honorable R. Kent Apsley,
Judge

Trial Court Cause No.
73D01-1710-F4-24

Bailey, Judge.

Case Summary

- [1] Tamara L. Lucas (“Lucas”) appeals the trial court’s order changing her placement from home detention to incarceration. She raises one issue on appeal which we restate as whether the trial court abused its discretion when it ordered her to serve the remainder of her sentence in the Department of Correction (“DOC”) rather than in community corrections on home detention.
- [2] We affirm.

Facts and Procedural History

- [3] In September 2018, a jury convicted Lucas of sexual misconduct with a minor, as a Level 4 felony.¹ The trial court sentenced Lucas to a five-year term, with four years executed in the DOC and one year as a direct commitment to community corrections home detention. Lucas was also ordered to successfully complete the Sex Offender Management Program (“SOMP”) and register as a sex offender.
- [4] On October 1, 2020, Lucas began participation in the community corrections home detention program, including wearing an ankle monitor, and agreed to abide by the terms and conditions of that program and SOMP. Lucas agreed to the many terms of the community corrections program, including agreements

¹ Ind. Code § 35-42-4-9(a)(1).

that: she would acquire a residence in Shelby County and remain there unless her case manager consented to her leaving; she would submit a schedule weekly to community corrections and follow that schedule; and she would refrain from committing additional criminal offenses. Under SOMP, Lucas agreed to refrain from using social media.

[5] Lucas did not obtain a Shelby County residence, as required under the terms of the community corrections program and SOMP. On October 3, 10, and 13 of 2020, Lucas accessed Facebook. On October 14, Lucas met with community corrections case manager, Caitlyn Polson (“Polston”), for the first and only time. At that meeting, Lucas stated that she had “endured sexual abuse,” and Polston contacted law enforcement to report the abuse. Tr. v. II at 18. Lucas was taken to Community Hospital, and Polston instructed Lucas to notify Polston when she was released from the hospital. Lucas was released that same day, i.e., October 14, but did not contact Polston or any other probation authorities. Upon her release from the hospital, Lucas drove around Indianapolis. Community corrections field officer Brian Toney (“Toney”) contacted Lucas through her monitoring device and instructed Lucas to report to community corrections the following day or else be charged with escape. Lucas did not report to community corrections.

[6] On October 23, 2020, Toney received an alert that Lucas’s ankle monitor had been removed. Toney contacted the Lebanon Police Department (“LPD”) and requested its assistance in locating Lucas. Officer Edmonds of the LPD (“Officer Edmonds”) went to the location last indicated by Lucas’s ankle

monitor. There, Officer Edmonds found Steve Baker's ("Baker") trailer. Baker answered Officer Edmonds's knock at the door and stated that Lucas was not in the trailer. Baker allowed the officer to enter the home to verify that Lucas was not inside. Inside the trailer, Officer Edmonds found two white bags that belonged to Lucas. Officer Edmonds then called community corrections and asked them to set off the tamper alarm on Lucas's device to try to locate Lucas or the device. A different officer went outside to listen for the device alarm. Although the officers did not hear the tamper alarm sound, law enforcement soon found Lucas hiding outside, under the back stairs to the trailer.

[7] Lucas was read her *Miranda* rights and subsequently admitted to law enforcement that: Baker had given her a ride to Lebanon; she had asked Baker to cut off her ankle monitor and he did so; and she left the ankle monitor on a truck at a truck stop in Lebanon. Lucas was arrested and she was taken to the Boone County Jail.

[8] On October 27, 2020, the State filed a petition to change Lucas's placement from community corrections to incarceration. The petition alleged that Lucas violated multiple community corrections rules, including:

- Lucas left Shelby County without the consent of her case manager;

- Lucas failed to turn in a weekly schedule and/or failed to abide by the schedule;

- Lucas committed, was arrested for, or was charged with a criminal offense;
- Lucas failed to keep the electronic monitor maintained or activated;
- Lucas failed to obey the law while on home detention; and
- Lucas failed to report for all appointments as directed by community corrections.

The petition further alleged that Lucas failed to abide by the terms and conditions of SOMP by visiting, creating, or using a social media network page, namely Facebook, using a computer or cellular phone with access to online services, and committing a new criminal offense.

[9] In October 2020, Lucas was charged with and pled guilty to escape, as a Level 6 felony,² in Boone County under cause number 06D01-2010-F6-001843 (“F6-1843”). On August 27, 2021, following her guilty plea to the escape charge, Lucas was sentenced to 618 days and already had accumulated 309 days of credit. The court ordered her to serve her remaining sentence consecutive to the sentence in the instant case. Upon the completion of her sentence for escape, Lucas was transferred back to Shelby County.

² I.C. § 35-44.1-3-4(b).

[10] On October 18, 2021, the State filed a second petition to change Lucas's placement from community corrections to incarceration. The petition alleged that Lucas again violated the terms and conditions of SOMP and/or community corrections by committing, being arrested for, or being charged with a criminal offense—namely, escape—and failing to advise the law enforcement officers with whom she had come into contact that she was on house arrest.

[11] On November 24, 2021, the trial court conducted a fact-finding hearing on both of the State's petitions to change Lucas's placement from home detention to incarceration. The State presented testimony from Polston and Toney regarding Lucas's multiple violations of the terms of the community corrections program and SOMP. Lucas admitted into evidence her Exhibit A, which was Officer Edmonds's police report regarding her arrest and confessions on October 23, 2020. Lucas also testified on her own behalf. Lucas testified that she did not access Facebook or cut off her ankle monitor while on home detention. She stated that a rapist who was attempting to keep her hostage had cut off her ankle monitor, and she insisted that the Lebanon police report supported that contention. The only Lebanon police report in evidence is Defendant's Exhibit A, which states that Lucas admitted to law enforcement on October 23, 2020, that she had asked Baker to cut off her ankle monitor and he had done so. Lucas testified that the only reason she pled guilty to the escape charge in cause F6-1843 was that she "didn't want to sit there any longer." *Tr. v. II* at 31.

[12] At the conclusion of the hearing, the trial court found that Lucas had “violated the terms of Community Corrections as alleged,” and ordered Lucas to serve the balance of her sentence in the instant case—i.e., 334 days—incarcerated in the DOC. The appeal ensued.

Discussion and Decision

[13] Lucas argues that the trial court abused its discretion when it changed her placement from home detention through community corrections to incarceration in the DOC. A trial court has authority to place a convicted offender in home detention instead of incarceration, and home detention may be imposed as either a condition of probation or as an alternative placement that is part of an offender’s community corrections program. *See* I.C. § 35-38-2.5-5 (2021) (home detention as a condition of probation); I.C. § 35-38-2.6-4.5 (2021) (home detention in the community corrections program). Here, Lucas was placed on home detention under the community corrections program as an alternative to incarceration in the DOC, and it is the revocation of that placement in community corrections that Lucas now challenges.

[14] Like probation, placement in community corrections is a “matter of grace” and a “conditional liberty that is a favor, not a right” to which a defendant is entitled. *State v. Vanderkolk*, 32 N.E.3d 775, 777 (Ind. 2015) (citation omitted). Because of the similarities, we review revocation of community corrections placement in the same manner as revocation of probation. *Johnson v. State*, 62 N.E.3d 1224, 1229 (Ind. Ct. App. 2016) (citing *Cox v. State*, 706 N.E.2d 547,

549 (Ind. 1999)). That is, we review the revocation for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013); *see also Hill v. State*, 28 N.E.3d 348, 350 (Ind. Ct. App. 2015). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances before the court.” *Hill*, 28 N.E.3d 350 (citing *Smith v. State*, 963 N.E.2d 1110, 1112 (Ind. 2012)). “As with other sufficiency issues, we do not reweigh the evidence or judge the credibility of witnesses.” *Jenkins v. State*, 956 N.E.2d 146, 148 (Ind. Ct. App. 2011) (citation and quotation omitted), *trans. denied*. We will affirm the revocation of placement in a community corrections program if, “considering only the probative evidence and reasonable inferences therefrom, there is sufficient evidence supporting the conclusion that the individual within the program is guilty of violating *any* condition of the program.” *Patterson v. State*, 750 N.E.2d 879, 883 (Ind. Ct. App. 2001) (emphasis original) (quotation and citation omitted).

[15] The State provided ample evidence supporting the trial court’s finding that Lucas violated multiple terms of her community corrections placement. Lucas admitted to law enforcement on October 23, 2020, that she asked Baker to cut off her ankle monitor while she was on home detention and that he did so. Moreover, Lucas pled guilty to the escape charge that resulted from her actions on October 23, 2020. In addition, the State provided evidence that Lucas: left Shelby County without the consent of her community corrections case manager; failed to turn in a weekly schedule and/or failed to abide by the schedule; and failed to report for all appointments as directed by community

corrections, all of which violated the terms of her community corrections placement. The State also presented evidence that Lucas accessed Facebook, in violation of the terms of SOMP. Lucas's testimony to the contrary and assertion that we must credit that testimony is merely a request that we reweigh the evidence and judge witness credibility, which we may not do. *See, e.g., Jenkins*, 956 N.E.2d at 148.

[16] The trial court did not abuse its discretion when it revoked Lucas's placement in community corrections and instead ordered her incarceration in the DOC.

[17] Affirmed.

Najam, J., and Bradford, C.J., concur.