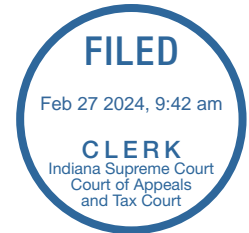


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE
Court of Appeals of Indiana

Michael D. Woods,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

February 27, 2024

Court of Appeals Case No.
23A-CR-2432

Appeal from the Jefferson Circuit

The Honorable Donald J. Mote, Judge

Trial Court Cause No.
39C01-2201-F4-43

Memorandum Decision by Judge Pyle
Judges Bailey and Crone concur.

Pyle, Judge.

Statement of the Case

- [1] Michael D. Woods (“Woods”) appeals the revocation of his probation. Specifically, although he acknowledges that he violated the terms and conditions of his probation, Woods argues that the trial court abused its discretion when it ordered him to serve the remainder of his previously suspended sentence. Concluding that the trial court did not abuse its discretion, we affirm the trial court’s judgment.
- [2] We affirm.

Issue

Whether the trial court abused its discretion when it ordered Woods to serve the remainder of his previously suspended sentence after he had violated the terms and conditions of his probation.

Facts

- [3] In July 2022, fifty-five-year-old Woods pleaded guilty to Level 4 felony dealing in methamphetamine. Pursuant to the terms of the plea agreement, the trial court sentenced Woods to ten (10) years at the Department of Correction, with eight (8) years suspended to probation. The terms and conditions of Woods’ probation required him to abstain from the use of illegal drugs. Woods began serving probation on December 7, 2022.

- [4] Nine days later, on December 16, 2022, Woods used methamphetamine. On December 20, 2023, Woods tested positive for methamphetamine. Woods also tested positive for methamphetamine on February 23, 2023. At some point, Woods' probation officer, Leah Pruett ("Probation Officer Pruett") placed Woods in the Matrix Program ("the Matrix Program"), which is a drug treatment program. However, Woods was terminated from that program in June 2023 for noncompliance, including failing to report for two drug screens.
- [5] Following Woods' termination from the Matrix Program, the State filed a petition to revoke Woods' probation on June 29, 2023. The petition alleged that Woods had violated the terms and conditions of his probation by, among other things, using methamphetamine on December 16, 2022, testing positive for methamphetamine on December 20, 2022 and February 23, 2023, and using methamphetamine on April 9, 2023.
- [6] The trial court held a hearing on the revocation petition in September 2023 and heard the facts as set forth above. At the beginning of the hearing, Woods admitted that he had violated the terms and conditions of his probation by using methamphetamine twice in December 2022 and once in February 2023. In addition, Woods acknowledged that his probation had been revoked numerous times in several different cases over the years. Nevertheless, Woods asked the trial court to place him back on probation with "strict compliance." (Tr. Vol. 2 at 22). Woods further explained, "[a]nd one missed meeting, one late meeting, anything, do you know what I mean? Just - - then revoke me." (Tr. Vol. 2 at 22). Probation Officer Pruett testified that Woods had tested

positive for methamphetamine four times, but she did not specifically mention the April date that had been set forth in the revocation petition.

[7] At the end of the hearing, the trial court revoked Woods' probation and ordered him to serve his eight-year previously suspended sentence in the Department of Correction.

[8] Woods now appeals.

Decision

[9] Woods argues that the trial court abused its discretion when it ordered him to serve his entire previously suspended sentence after he violated the terms and conditions of his probation. We disagree.

[10] Probation is a matter of grace and a conditional liberty that is a favor, not a right. *State v. Vanderkolk*, 32 N.E.3d 775, 777 (Ind. 2015). Once a trial court has exercised its grace in this regard, it has considerable leeway in deciding how to proceed when the conditions of placement are violated. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). If this discretion were not given to trial courts and sentences were scrutinized too severely on appeal, trial courts might be less inclined to order probation. *Id.* Accordingly, a trial court's sentencing decision for a probation violation is reviewable for an abuse of discretion. *Id.* An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances. *Id.* If a trial court finds that a person has violated his probation before termination of the probationary period, the court may order execution of *all* or part of the sentence that was suspended at

the time of the initial sentencing. IND. CODE § 35-38-2-3(h)(3) (emphasis added).

[11] Here, Woods, who was on probation for Level 4 felony dealing in methamphetamine, admitted that he had violated the terms and conditions of his probation by using methamphetamine. Indeed, Woods first used methamphetamine nine days after he had been placed on probation. In addition, Woods continued to use methamphetamine for the next three months. Further, although Probation Officer Pruett had placed Woods in a drug treatment program, Woods was terminated from the program for non-compliance, including failing to report for two drug screens. The trial court was well within its discretion when it ordered Woods to serve the remainder of his previously suspended sentence.

[12] Affirmed.

Bailey, J., and Crone, J., concur.

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