

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Trey William Magnetti, Jr.,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

July 27, 2023

Court of Appeals Case No.  
23A-CR-516

Appeal from the Vigo Superior  
Court

The Honorable John T. Roach,  
Judge

Trial Court Cause Nos.  
84D01-2004-F4-1425, 84D01-1906-  
F5-2304, & 84D01-1912-F4-4666

**Memorandum Decision by Judge Riley.**  
Judges Bradford and Weissmann concur.

**Riley, Judge.**

## STATEMENT OF THE CASE

[1] Appellant-Defendant, Trey Magnetti (Magnetti), appeals the revocation of his work release placement.

[2] We affirm.

## ISSUE

[3] Magnetti presents this court with one issue, which we restate as: Whether the trial court abused its discretion when it revoked his work release placement and ordered him to execute half of his remaining sentence in the Department of Correction (DOC).

## FACTS AND PROCEDURAL HISTORY

[4] On October 21, 2020, in a collective plea agreement spanning four separate criminal cases, Magnetti pleaded guilty to two Counts of Level 4 felony burglary, Level 5 felony burglary, and Level 6 felony failure to return to lawful detention. In exchange, the State agreed to dismiss charges of Level 6 felony residential entry, three Counts of Class A misdemeanor theft, and two additional criminal cases pending against Magnetti.<sup>1</sup> Magnetti's plea agreement called for a cap of twelve years on any executed portion of his sentence. Also on October 21, 2020, the trial court sentenced Magnetti to an aggregate term of seven years to be served on work release through Vigo County Community

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<sup>1</sup> The nature of these two additional criminal cases is not apparent from the record.

Corrections (VCCC) “as long as defendant is compliant with the rules and regulations of the same.” (Appellant’s App. Vol. II, p. 86). As part of his plea agreement, Magnetti had agreed to abide by the standard terms of work release, to submit to random drug tests, and to stipulate to the admissibility of the results of those drug tests in any future revocation hearing.

[5] On May 26, 2021, the trial court revoked Magnetti’s direct placement to work release after having found that Magnetti violated the terms of his placement by possessing a contraband lighter and by failing to return to work release. The trial court remanded Magnetti to the DOC but further ordered that it would consider a sentence modification back to work release if Magnetti completed Purposeful Incarceration. Magnetti subsequently completed Purposeful Incarceration. On August 24, 2022, the trial court modified Magnetti’s sentence back to work release through VCCC. Magnetti started work release again on September 19, 2022.

[6] On November 21, 2022, the State filed a petition to revoke Magnetti’s placement in work release, alleging that (1) Magnetti had tested positive for methamphetamine and amphetamine on October 26, 2022, (2) Magnetti owed \$762 in work release fees, and (3) Magnetti had possessed a paper receipt with methamphetamine residue on it on November 16, 2022. On February 8, 2023, the trial court held an evidentiary hearing on the State’s revocation petition. VCCC case manager Abbie Shidler (Shidler) testified that Magnetti tested positive for methamphetamine and amphetamine on October 26, 2022, that Magnetti was aware that he was behind on his fees, and that VCCC does not

start writing up a defendant for non-payment of fees unless a defendant continually fails to submit his check stubs when he is employed and the arrears is over \$500. Shidler also informed the trial court that Magnetti was no longer a candidate for work release because he had “already failed to complete our program a couple different times. So we would not accept him back.”

(Transcript p. 12). Magnetti testified that he would like to be returned to work release. In its closing argument, the State acknowledged that its previously planned “recommendation in this case was to have the defendant admit and just be returned to work release” but that VCCC would no longer accept Magnetti due to his serial failures on work release. (Tr. p. 14). The State left the revocation decision to the trial court’s discretion, given that work release was not available as an option.

[7] After hearing the evidence and the arguments of the parties, the trial court observed the following:

Seems like we’ve had multiple opportunities to engage in work release and there continues to be issues. I understand your desire to go back to work and you want to get back to work release, but we’ve had two different stints previous to this one, and they’re not willing to have you back at this time.

[8] (Tr. p. 21). The trial court found that Magnetti had violated the terms of his work release placement by (1) testing positive for methamphetamine and amphetamine on October 26, 2022, and (2) by being in \$762 in arrears in fees. The trial court revoked Magnetti’s work release placement for the 1,109 days remaining on his sentence. The trial court ordered Magnetti to serve half of his

remaining sentence, 554 days, in the DOC, followed by a return to work release to serve the remaining 555 days.

[9] Magnetti now appeals. Additional facts will be provided as necessary.

## **DISCUSSION AND DECISION**

[10] Magnetti does not challenge the evidence supporting the trial court's conclusion that he violated the terms work release; rather, he argues that the trial court abused its discretion when it revoked his work release placement as punishment for his violations. A defendant is not entitled to serve any portion of his sentence in a community corrections program; rather, like probation and other alternative forms of placement, a community corrections placement is a matter of grace on the part of the trial court. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). If a trial court determines that a defendant has violated the terms of his community corrections placement, it may revoke the placement and order that the defendant serve the remainder of his sentence in the DOC. Ind. Code § 35-38-2.6-5(4). The violation of a single condition of community corrections or work release is sufficient to revoke the placement. *Treece v. State*, 10 N.E.3d 52, 60 (Ind. Ct. App. 2014) (citing *Gosha v. State*, 873 N.E.2d 660, 663 (Ind. Ct. App. 2007)), *trans. denied*. If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any term of his community corrections placement, we will affirm the decision to revoke that placement. *Cox*, 706 N.E.2d at 549.

[11] Here, Magnetti pleaded guilty to four offenses, including failure to return to lawful detention, yet the trial court provided him with the opportunity to serve his entire seven-year aggregate sentence on work release through VCCC. Magnetti agreed to abide by the terms of his work release placement and to abstain from the use of illegal drugs. Approximately seven months later, the trial court revoked Magnetti's work release placement due to possession of contraband and for failure to return. The trial court remanded Magnetti to the DOC but provided him with the opportunity to avoid remaining there by allowing him to petition for a sentence modification after completing Purposeful Incarceration. Magnetti successfully petitioned for work release after completing Purposeful Incarceration, yet just over one month after being returned to work release and being given yet another opportunity to avoid prison, Magnetti violated the terms of work release again by testing positive for methamphetamine and amphetamine. Given Magnetti's failed drug test so soon after being returned to work release, his pattern of failed attempts at executing sentences in alternative settings to prison, and the fact that VCCC was no longer willing to accept him for its work release program, we find no abuse of the trial court's discretion in revoking Magnetti's work release placement, especially where the trial court has provided him additional leniency in allowing him the opportunity to return to work release after he executes 554 days in the DOC. *See Puckett v. State*, 183 N.E.3d 335, 339 (Ind. Ct. App. 2022) (affirming the revocation of Puckett's home detention placement where he failed a drug test one month after sentencing, he had an extensive criminal record, and the trial court leniently ordered him to serve only the time

remaining on his two-year home detention commitment instead of the four years it had suspended to probation), *trans. denied*.

[12] Magnetti contends that the trial court abused its discretion in revoking his work release placement because the State had planned to return him to work release despite his violation but did make that recommendation because the State erroneously believed that he could not pay his fees. Magnetti further argues that revocation was an abuse of the trial court's discretion because the decision to revoke his placement "was based primarily on the fee arrearage, which [he] had the ability to resolve at the time of the hearing." (Appellant's Br. p. 8). However, the State's plan to recommend work release for Magnetti was premised on his admission to the violation, but Magnetti did not admit the violation. The State also acknowledged at the revocation hearing that it could not recommend work release for Magnetti due to VCCC's refusal to accept him. In addition, the trial court found that Magnetti had violated the terms of his work release placement by failing his October 26, 2022, drug test and by being in arrears in his fees; either one of these violations was sufficient to completely revoke Magnetti's work release placement. *See Treece*, 10 N.E.3d at 60. Even if we were to assume for the sake of argument that Magnetti's failure to pay his fees did not support revocation, Magnetti does not explain why his October 26, 2022, failed drug test was inadequate to support the trial court's decision to revoke his placement. We also find Magnetti's argument unpersuasive because, in its oral revocation statement, the trial court clarified that it revoked Magnetti's work release placement due to his pattern of failure

in the program—it did not state that its revocation decision was primarily based on Magnetti’s fees arrearage. Accordingly, we find no abuse of the trial court’s discretion.

## **CONCLUSION**

[13] Based on the foregoing, we conclude that the trial court did not abuse its discretion when it revoked Magnetti’s placement in work release.

[14] Affirmed.

[15] Bradford, J. and Weissmann, J. concur