

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Mani S. Johnson,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

March 31, 2021

Court of Appeals Case No.  
20A-CR-1977

Appeal from the Hamilton  
Superior Court

The Honorable William J. Hughes,  
Judge

Trial Court Cause No.  
29D03-1803-F3-2079

**Pyle, Judge.**

## **Statement of the Case**

- [1] Mani Johnson (“Johnson”) appeals following the revocation of his probation. Johnson argues that the trial court abused its discretion by ordering him to serve the entirety 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 by ordering Johnson to serve the entirety of his previously suspended sentence.

## **Facts**

- [3] In March 2018, the State charged Johnson with Level 3 felony burglary, Level 5 felony criminal confinement resulting in bodily injury, Level 5 felony stalking, Level 6 felony residential entry, Level 6 felony strangulation, Class A misdemeanor domestic battery, Class A misdemeanor theft, Class A misdemeanor interference with the reporting of a crime, and Class A misdemeanor invasion of privacy under cause number 29D03-1803-F3-2079 (“Cause F3-2079”). The trial court ordered Johnson to have no contact with the victim. Johnson and the victim share a child.
- [4] In August 2018, Johnson and the State entered into a plea agreement. The terms of the agreement provided that, in exchange for Johnson’s guilty plea to Level 5 felony criminal confinement resulting in bodily injury, the State would

dismiss the remaining charges, as well as pending charges under a different cause number. The agreement provided that the “[n]o contact order issued in this case shall stay in place until sentence is complete[.]” (App. Vol. 2 at 53). Thereafter, the trial court sentenced Johnson to five (5) years with three (3) years executed in the Department of Correction (“DOC”) and two (2) years suspended to probation. Pursuant to the terms and conditions of his probation, Johnson was ordered to “[c]omply with all Local, State and Federal laws[.]” (App. Vol. 2 at 102). Additionally, Johnson’s probation conditions specified that compliance with the “[n]o contact order has been imposed as a condition of probation.” (App. Vol. 2 at 104).

[5] On January 2, 2020, Johnson was charged with three counts of Level 6 felony invasion of privacy and three counts of Class A misdemeanor invasion of privacy under cause number 29D03-2001-F6-399 (“Cause F6-399”). Thereafter, on January 22, 2020, the State filed a notice of probation violation under Cause F3-2079. The State alleged that Johnson had committed the six criminal offenses in Cause F6-399 in violation of his probation condition to comply with state laws.

[6] On June 18, 2020, the trial court held a hearing wherein Johnson pled guilty to Level 6 felony invasion of privacy under Cause F6-399 and admitted to violating probation under Cause F3-2079. Specifically, Johnson admitted that he had failed to comply with Indiana law by committing the offense in Cause F6-399 by sending the victim a letter regarding their child.

[7] On October 16, 2020, the trial court held Johnson’s dispositional hearing. After hearing argument, the trial court ordered Johnson to serve the entirety of his previously suspended two-year sentence in the DOC. Johnson now appeals.

## Decision

[8] Johnson argues that the trial court abused its discretion when it ordered him to serve the entirety of his previously suspended two-year sentence in the DOC. “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). The trial court determines the conditions of probation and may revoke probation if the conditions are violated. *Id.* Proof of a single violation is sufficient to permit a trial court to revoke probation. *Beeler v. State*, 959 N.E.2d 828, 830 (Ind. Ct. App. 2011), *trans. denied*. After the trial court has determined that a probationer has violated probation, the trial 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.

IND. CODE § 35-38-2-3(h). This Court has held that a trial court is not required to balance “aggravating or mitigating circumstances when imposing [a] sentence in a probation revocation proceeding.” *Treece v. State*, 10 N.E.3d 52,

59 (Ind. Ct. App. 2014) (citation omitted), *trans. denied*. We review a trial court's decision regarding the sanction for an abuse of discretion. *Puckett v. State*, 956 N.E.2d 1182, 1186 (Ind. Ct. App. 2011). An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. *Id.*

[9] Johnson does not challenge the determination that he violated the terms of his probation. Rather, his only argument on appeal is that the trial court abused its discretion when imposing its sanction. Specifically, Johnson asserts that his probation violation “was motivated by a concern for his child and the living conditions of his child[,]” and he argues that this motivation “should mitigate the punishment to some extent[.]” (Johnson’s Br. 7).

[10] Here, the trial court had a sufficient basis for its decision to order Johnson to serve his previously suspended sentence. Johnson originally pled guilty to Level 5 felony criminal confinement resulting in bodily injury and was sentenced to five (5) years with three (3) years executed and two (2) years suspended to probation. Johnson’s probation conditions specified that he was ordered to comply with all local, state, and federal laws and to abide by the no contact order that had been imposed. Johnson then sent a letter to the victim regarding their child, thereby committing a new offense and violating his probation. Thereafter, Johnson pled guilty to Level 6 felony invasion of privacy and admitted that he had violated his probation by committing said offense.

[11] Due to Johnson’s violation of a condition of probation, INDIANA CODE § 35-38-2-3(h) authorized the trial court to “[o]rder execution of all . . . of the sentence that was suspended at the time of initial sentencing.” The trial court was authorized to do so without regard for any alleged aggravating or mitigating circumstances. *See Porter v. State*, 117 N.E.3d 673, 675 (Ind. Ct. App. 2018) (noting that the applicable statute “imposes no requirement upon the trial court to balance aggravating and mitigating circumstances” when imposing a consequence for a probation violation). Accordingly, the trial court was well within its discretion to order Johnson to serve the entirety of his previously suspended sentence upon finding that he had violated his probation.

[12] Affirmed.

Najam, J., and Tavitas, J., concur.