

## 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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Daniel Lee Megenhardt,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

April 5, 2022

Court of Appeals Case No.  
21A-CR-2515

Appeal from the Vigo Superior  
Court

The Honorable John T. Roach,  
Judge

Trial Court Cause No.  
84D01-1910-F6-3878  
84D01-2010-F6-3509

**Mathias, Judge.**

[1] Daniel Lee Megenhardt appeals the Vigo Superior Court's order revoking his probation and ordering him to serve his previously suspended sentences on work release. Concluding that the trial court did not abuse its discretion when it sentenced Megenhardt, we affirm.

### **Facts and Procedural History**

[2] In April 2021, Megenhardt was serving probation for two years for a Level 6 felony unlawful possession of a syringe conviction under cause number 84D01-1910-F6-3878. On April 12, Megenhardt pleaded guilty to Level 6 felony theft in cause number 84D01-2010-F6-3509. He was ordered to serve two and one-half years, which were suspended to probation and ordered to run consecutive to his two-year sentence for his possession of a syringe conviction.

[3] On May 20, the State filed a notice that Megenhardt had violated his probation by committing new criminal offenses, failing to attend an appointment with his probation officer, being discharged from a substance abuse treatment program, and testing positive for controlled substances. Megenhardt admitted that he violated his probation. On the date of disposition, Megenhardt was placed in an inpatient substance abuse treatment program. The trial court sentenced Megenhardt to time served, returned him to probation, and ordered him to complete the inpatient treatment program.

[4] On August 17, the State alleged that Megenhardt violated his probation because he was discharged from the inpatient treatment program for refusing to submit to a drug screen. The State also alleged that he failed to maintain contact with

his probation officer after he was discharged. The trial court ordered Megenhardt to enroll in a new sober living facility, to be arranged by his probation officer.

On September 10, the State filed an amended notice of probation violation and alleged that Megenhardt had not enrolled in a sober living facility.

[5] On September 20, the trial court held an evidentiary hearing concerning the alleged probation violations. Megenhardt's probation officer testified that Megenhardt refused to submit to a drug screen and was discharged from his treatment program at Truman House. Tr. p. 27. Megenhardt admitted to the house manager that he was using methamphetamine. *Id.* And he told his probation officer that his future methamphetamine use was inevitable. Megenhardt's probation officer arranged for his admission to Odyssey House to continue his substance abuse treatment program. Megenhardt eventually told his probation officer that Odyssey House "was not going to work for him." *Id.* at 28. And then Megenhardt failed to maintain contact with his probation officer.

[6] Megenhardt testified and made excuses for failing to submit to a drug screen, claiming that he was dehydrated, and that he misunderstood what the arrangements were for his admission into Odyssey House. *Id.* at 32-33. The trial court specifically found that Megenhardt's testimony was not credible and that he violated his probation. *Id.* at 35-36.

[7] Under cause number 84D01-1910-F6-3878, the trial court revoked Megenhardt's two-year suspended sentence. And under cause number 84D01-

2010-F6-3509, the trial court revoked one and one-half years of the two and one-half-year sentence. The court ordered the sentence to be served as a direct commitment to work release. The court also indicated that it would consider modifying Megenhardt's sentence if he was compliant with the terms and conditions of his sentence.

[8] Megenhardt now appeals.

### **Discussion and Decision**

[9] Megenhardt argues that the trial court abused its discretion when it revoked his probation and ordered him to serve three and one-half years of his previously suspended sentences in work release. He complains that the trial court's sentencing decision was not warranted because his three probation violations all stemmed from his refusal to submit to one drug screen.

[10] "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). It is within the discretion of the trial court to determine probation conditions and to revoke probation if these conditions are violated. *Id.* We review an appeal from a trial court's probation determination and sanction for an abuse of discretion. *Id.* An abuse of discretion occurs when the decision is clearly against the logic and effect of the facts and circumstances. *Smith v. State*, 963 N.E.2d 1110, 1112 (Ind. 2012). We consider the evidence most favorable to the judgment of the trial court, without reweighing that evidence or judging the

credibility of the witnesses. *Ripps v. State*, 968 N.E.2d 323, 326 (Ind. Ct. App. 2012).

[11] “A revocation hearing is in the nature of a civil proceeding, and the alleged violation only needs to be established by a preponderance of the evidence.” *Smith v. State*, 727 N.E.2d 763, 765 (Ind. Ct. App. 2000). The trial court must first make a factual determination that a violation of a condition has occurred. *Overstreet v. State*, 136 N.E.3d 260, 263 (Ind. Ct. App. 2019). If a violation of a condition is proven, then the trial court must determine if the violation warrants revocation of the probation. *Id.* Megenhardt does not claim that the State failed to present sufficient evidence to prove that he violated his probation.

[12] After the trial court determined that Megenhardt’s violations warranted revoking his probation, the court was permitted to impose one 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 year beyond the original probationary period; or (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing. *See id.* (citing *Ind. Code § 35-38-2-3(h)*). Megenhardt contends that the trial court could have utilized several dispositions that were not as punitive when it revoked his probation for “a fairly minor violation of not submitting to a drug screen in a timely fashion.” Appellant’s Br. at 9.

[13] Megenhardt does not deny violating his probation. Instead, he mischaracterizes the evidence by claiming that his probation was revoked because he refused to

submit to one drug screen. After refusing to submit to the drug screen, Megenhardt admitted that he used methamphetamine and would continue to use it. And Megenhardt's probation officer arranged for him to receive in-patient treatment at Odyssey House after he was discharged from Truman House, but Megenhardt did not admit himself to the facility. Megenhardt also failed to maintain contact with his probation officer as instructed. Finally, Megenhardt violated his probation in cause number 84D01-1910-F6-3878 by committing theft. He then violated his probation again in both causes in May 2021. In determining Megenhardt's sentence, the trial court considered Megenhardt's numerous failures to follow court orders and his failure to benefit from sober living programs. Tr. pp. 35-37.

[14] For all of these reasons, the trial court did not abuse its discretion when it revoked Megenhardt's probation and ordered him to serve his previously suspended sentence in work release.

[15] Affirmed.

Bailey, J., and Altice, J., concur.