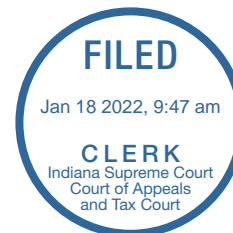


MEMORANDUM DECISION

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.



ATTORNEYS FOR APPELLANT

Valerie K. Boots
Indianapolis, Indiana

Michael C. Borschel
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Myriam Serrano
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jamie Lee Wilson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 18, 2022

Court of Appeals Case No.
21A-CR-1894

Appeal from the Marion Superior
Court

The Honorable William J. Nelson,
Judge

Trial Court Cause Nos.
49F18-1005-FD-42152, 49F18-
1007-FD-55464

Altice, Judge.

Case Summary

- [1] Jamie Lee Wilson appeals the revocation of her probation in one case and the revocation of her placement on community corrections in another case.¹ Wilson asserts that she was deprived of due process because she was not advised of certain rights prior to admitting to the alleged violations.
- [2] We reverse and remand.

Facts & Procedural History

- [3] In July 2010, Wilson was convicted, pursuant to guilty pleas, of Class D felony prostitution under cause number 49F18-1005-FD-42152 (Cause FD-42152) and of Class D felony possession of paraphernalia under cause number 49F18-1007-FD-55464 (Cause FD-55464). The court suspended her sentences to probation.
- [4] Wilson violated probation in Cause FD-55464 on multiple occasions in 2010. In 2015, the court revoked her probation and ordered her to participate in community corrections. In October 2015, the State filed a notice of community corrections violation, and an arrest warrant was issued. On February 29, 2016, the State filed a notice of probation violation in Cause FD-42152, and a warrant was issued in that case as well.
- [5] Wilson was arrested years later, on August 6, 2021. On August 17, 2021, the court held a combined initial hearing in both cases. The trial court informed

¹ We granted Wilson's request to consolidate the two separately-filed appeals.

Wilson of the alleged violations and that she had the right to counsel. At Wilson's request, the court assigned counsel to represent her.

- [6] On August 20, 2021, the court held an evidentiary hearing on the violations. The court opened the hearing by asking how Wilson wished to proceed, and her counsel stated that Wilson wished to admit the violations and to read a statement to the court. Wilson then read the statement, after which representatives from probation and community corrections each recommended to the court that probation be revoked. Thereafter, the court revoked Wilson's probation in Cause FD-42152, ordering her to serve 545 days in the Marion County Jail, and revoked her participation in community corrections in Cause FD-55464, ordering her to serve 197 days in the Marion County Jail. Wilson now appeals.

Discussion & Decision

- [7] Wilson contends that she was denied due process at the probation revocation hearing because she was not properly advised of her rights. Whether a party was denied due process is a question of law that we review de novo. *Hilligoss v. State*, 45 N.E.3d 1228, 1230 (Ind. Ct. App. 2015).
- [8] "A probationer faced with a petition to revoke h[er] probation is not entitled to the full panoply of rights [s]he enjoyed prior to the conviction." *Cooper v. State*, 900 N.E.2d 64, 66 (Ind. Ct. App. 2009). However, one facing revocation is entitled to certain due process protections during the proceedings. *Id.* Indiana codified the due process requirements for probation revocations in Indiana

Code § 35-38-2-3. When a petition to revoke probation is filed, “the court shall conduct a hearing concerning the alleged violation.” I.C. § 35-38-2-3(d). Such a hearing requires evidence be presented in open court, and the probationer is “entitled to confrontation, cross-examination, and representation by counsel.” I.C. § 35-38-2-3(f). When a probationer chooses to admit to a probation or community corrections violation, she must be advised that she is giving up those protections. I.C. § 35-38-2-3(e); *see also Hilligoss*, 45 N.E.3d at 1231-32 (finding that probationer “was not properly advised” where the court failed to inform him that, by admitting to violation, he would be giving up right to confront and cross-examine witnesses at a hearing where the State would have to prove the alleged violation by a preponderance of the evidence).

[9] Here, Wilson asserts, and the State concedes, that, prior to her admission to violating the terms of probation and community corrections, she was not advised of any rights other than her right to representation by counsel. The trial court’s failure to properly advise Wilson constitutes fundamental error. *See Hilligoss*, 45 N.E.3d at 1232. Accordingly, we reverse the trial court’s revocation of Wilson’s probation and remand for a new hearing on the alleged violations.

[10] Judgment reversed and remanded.

Bailey, J. and Mathias, J., concur.