

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

Amanda Garner,
Appellant-Defendant

v.

State of Indiana,
Appellant-Plaintiff



February 22, 2024

Court of Appeals Case No.
23A-CR-1990

Appeal from the Elkhart Superior Court
The Honorable Teresa L. Cataldo, Judge

Trial Court Cause No.
20D03-2204-F3-13

Memorandum Decision by Judge Tavitias
Judges Mathias and Weissmann concur.

Tavitas, Judge.

Case Summary

- [1] Amanda Garner pleaded guilty to two offenses, and the trial court ordered her to serve the executed portion of her sentence in community corrections under strict compliance as an alternative placement to the Department of Correction (“DOC”). Garner later admitted to violating the terms of her community corrections placement. The trial court revoked her placement and ordered her to serve the executed portion of her sentence in the DOC; Garner appeals and argues that the trial court abused its discretion. We are not persuaded by Garner’s arguments. Accordingly, we affirm.

Issues

- [2] Garner raises one issue on appeal, which is whether the trial court abused its discretion by revoking her community corrections placement and ordering her to serve the executed portion of her sentence in the DOC.

Facts

- [3] On April 12, 2022, the State charged Garner with two counts: possession of methamphetamine in an amount of at least twenty-eight grams, a Level 3 felony; and driving while suspended, a Class A misdemeanor. Garner agreed to plead guilty to the lesser-included offense of possession of methamphetamine, a Level 4 felony; and the State agreed to dismiss the remaining charges.

- [4] The trial court sentenced Garner to ten years with four years suspended to probation and six years executed on community corrections as an alternative placement to the DOC. The trial court noted Garner’s criminal history, including a history of probation violations, and indicated that Garner would “be held to a standard of behavior that the court term[ed] ‘zero tolerance conduct’” for the duration of her sentence. Appellant’s App. Vol. II p. 69.
- [5] As a condition of Garner’s community corrections placement, Garner was required to, as relevant here: (1) avoid consuming or possessing, on her person or in her home, alcohol or illegal drugs; and (2) avoid possessing “paraphernalia or items deemed to be paraphernalia” by community corrections or law enforcement. *Id.* at 81. By June 2023, Garner had completed an in-patient treatment program and was approved to continue her community corrections placement at home.
- [6] On June 14, 2023, the State filed a petition that alleged Garner violated the terms of her community corrections placement. The petition alleged that one-eighth of a bottle of alcohol and a “glass pipe with black soot in it” were found in Garner’s home during a routine home visit. *Id.* at 85. The alcohol and pipe were found in the basement kitchen “[n]ext to the area where [Garner] kept her belongings” *Id.* at 88.
- [7] The trial court held a hearing on the petition on July 27, 2023. Garner admitted to violating the terms of her placement. According to Garner, she had only been home for “a week and a half” after her in-patient treatment program,

her cousin was living in the basement, neither the alcohol nor the pipe belonged to Garner, and Garner tested negative for alcohol and drugs. Tr. Vol. II p. 7. Garner admitted that she did not “do a sufficient job of making sure that those banned items” were not in her home.” *Id.* at 6.

[8] The trial court revoked Garner’s community corrections placement and ordered Garner to serve the six-year executed portion of her sentence in the DOC. In doing so, the trial court referenced the zero-tolerance policy it ordered in Garner’s original sentence. Additionally, because Garner tested negative for alcohol and drugs, the trial court did not order Garner to serve the suspended portion of her sentence. Garner now appeals.

Discussion and Decision

[9] Garner argues that the trial court abused its discretion by revoking her community corrections placement and ordering her to serve the executed portion of her sentence in the DOC. Garner has not carried her burden of persuasion.

A. Standard of Review

[10] “The standard of review for revocation of a community corrections placement is the same standard as for a probation revocation.” *Bennett v. State*, 119 N.E.3d 1057, 1058 (Ind. 2019) (citing *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999)). This is because “[b]oth probation and community corrections programs serve as alternatives to commitment to the DOC and both are made at the sole discretion of the trial court.” *Johnson v. State*, 62 N.E.3d 1224, 1229 (Ind. Ct.

App. 2016) (citing *Cox*, 706 N.E.2d at 549). Accordingly, placement in a community corrections program “is a matter of grace and not a right.” *Id.* (citing *Cox*, 706 N.E.2d at 549).

[11] We review a trial court’s sanction for the violation of a community corrections placement under the abuse of discretion standard. *Pucket v. State*, 183 N.E.3d 335, 339 (Ind. Ct. App. 2022) (citing *Johnson*, 62 N.E.3d at 1230), *trans. denied*. An abuse of discretion occurs when the trial court’s decision is against the logic and effect of the facts and circumstances before the court. *Id.* (citing *Johnson*, 62 N.E.3d at 1230). We neither reweigh the evidence nor judge the credibility of witnesses. *Id.* (citing *Johnson*, 62 N.E.3d at 1230).

B. The trial court did not abuse its discretion

[12] We conclude that the trial court did not abuse its discretion by revoking Garner’s community correction’s placement and ordering Garner to serve the executed portion of her sentence in the DOC. At issue in this case is the trial court’s “zero tolerance,” or strict compliance requirement, on which its sanction principally rested.

[13] Our Courts have previously opined on strict compliance requirements in the context of probation. In *Woods v. State*, 892 N.E.2d 637, 638-39 (Ind. 2008), our Supreme Court reviewed a “strict compliance” probation agreement reached between Woods and the State. When Woods later violated the terms of his probation, the trial court refused to allow Woods to explain the violations because Woods was on strict compliance. *Id.* at 639.

[14] Regarding the strict compliance agreement, Our Supreme Court noted that:

[I]n one sense all probation requires “strict compliance.” That is to say probation is a matter of grace. And once the trial court extends this grace and sets its terms and conditions, the probationer is expected to comply with them strictly. If the probationer fails to do so, then a violation has occurred. But even in the face of a probation violation the trial court may nonetheless exercise its discretion in deciding whether to revoke probation.

Id. at 641 (internal citation omitted). Our Courts have since declined to enforce agreements that sought to eliminate the trial court’s discretion in fashioning sanctions for probation and community corrections violations. *See, e.g., Sullivan v. State*, 56 N.E.3d 1157, 1162-63 (Ind. Ct. App. 2016) (reversing revocation of community corrections placement when trial court believed that plea agreement eliminated its discretion).

[15] This is not a case where Garner and the State entered into an agreement that eliminated the trial court’s discretion to fashion an appropriate sanction for a triggering violation. Rather, in determining Garner’s original sentence, the trial court independently ordered Garner to serve her community corrections placement under strict compliance. In doing so, the trial court was mindful of Garner’s criminal history and history of probation violations.

[16] Moreover, unlike in *Woods*, at the hearing on the violation allegations here, Garner was permitted to offer mitigating evidence to explain her violations. Although the trial court was not required to “balance aggravating and

mitigating circumstances,” *Killebrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021), *trans. denied*, nothing suggests that the trial court failed to consider the circumstances of Garner’s violations. Indeed, although the trial court referenced its strict compliance requirement, because Garner tested negative for alcohol and drugs, the trial court did not order Garner to serve the suspended portion of her sentence. Under these circumstances, we cannot say that the trial court abused its discretion.

Conclusion

[17] The trial court did not abuse its discretion by sanctioning Garner for her community corrections violations. Accordingly, we affirm.

[18] Affirmed.

Mathias, J., and Weissmann, J., concur.

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