

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert Bradley,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

September 27, 2023

Court of Appeals Case No.
23A-CR-1189

Appeal from the Ripley Superior
Court

The Honorable Jeffrey Sharp,
Judge

Trial Court Cause Nos.
69D01-1512-F6-177
69D01-1606-F6-141
69D01-1810-F6-234

Memorandum Decision by Judge Crone
Judges Brown and Felix concur.

Case Summary

- [1] Robert Bradley appeals the sanction imposed by the trial court upon revocation of his probation. He contends that the trial court abused its discretion by ordering him to serve four years of his suspended sentences. We affirm.

Facts and Procedural History

- [2] In December 2015, in cause number 69D01-1512-F6-177 (Cause 177), the State charged Bradley with level 6 felony auto theft and class B misdemeanor possession of marijuana. The State later filed a habitual offender enhancement. In May 2016, Bradley entered an open guilty plea, and the trial court accepted the plea and set a sentencing hearing.
- [3] In June 2016, in cause number 69D01-1606-F6-141 (Cause 141), the State charged Bradley with level 6 felony failure to appear, alleging that he failed to appear for the sentencing hearing in Cause 177 when ordered to do so.
- [4] In August 2017, in Cause 177, the parties entered into a plea agreement, in which Bradley agreed to plead guilty to level 6 felony auto theft and the habitual offender enhancement in exchange for a sentence of six and one-half years, with four years suspended to probation. The trial court accepted the plea agreement and entered judgment of conviction accordingly the same month.
- [5] In September 2017, in Cause 141, the parties entered into a plea agreement, in which Bradley agreed to plead guilty to level 6 felony failure to appear in exchange for a suspended sentence of two and one-half years. The trial court

accepted the agreement and in October 2017 entered judgment of conviction accordingly.

[6] In October 2018, while Bradley was on probation, the State charged him in cause number 69D01-1810-F6-234 (Cause 234) with level 6 felony auto theft and filed a habitual offender enhancement. Also that month, the State filed a petition for probation violation in Causes 177 and 141. In August 2020, the parties entered into a plea agreement, in which Bradley agreed to plead guilty as charged in Cause 234 in exchange for a sentence of six years, with two years suspended to probation. In addition, Bradley agreed to admit to his probation violation in Causes 177 and 141, and the State agreed that in Cause 177, the four years that had originally been suspended would be revoked and Bradley would be sentenced to an executed term of four years, with the sentence stayed pending successful completion of probation in Cause 141.

[7] In November 2022, Bradley was released to probation. As part of his probation agreement, he was required to participate in Moral Reconciliation Therapy (MRT)¹ and report any change of address to his probation officer within twenty-four hours of the change. On February 27, 2023, Bradley's probation officer filed a petition requesting a hearing for alleged probation violations and a warrant for Bradley's arrest. The probation violation petition alleged that

¹ MRT "is a systematic treatment approach that seeks to decrease recidivism, or the tendency of a convicted criminal to re-offend, among juvenile and adult Incarcerated Individuals by increasing moral reasoning." *Ind. Dep't of Corr. Programs*, <https://www.in.gov/idoc/information/programs/> [<https://perma.cc/X3EY-DEJR>].

Bradley had a total of five unexcused absences from MRT classes, one in December 2022 and four in February 2023; that the probation department had attempted to conduct a home visit at his reported address on February 23, 2023, but had been informed that he had moved out of the residence at least a month earlier and had not returned; and that his whereabouts were unknown. On February 28, 2023, the trial court issued a warrant for Bradley's arrest. After talking with his family, Bradley turned himself in on March 9, 2023.

[8] On April 26, 2023, a probation violation hearing was held, at which Bradley admitted that he violated the terms of his probation by accumulating five unexcused absences from MRT classes and failing to notify his probation officer of his new address. The parties agreed that, based on the August 2020 plea agreement and Bradley's admissions, the stayed sentence of four years in Cause 177 would be ordered executed. After hearing argument regarding the appropriate sanctions in Causes 141 and 234, the trial court observed that Bradley had repeatedly violated probation and was "a poor candidate for probation and highly likely to reoffend." Tr. Vol. 2 at 43. The court issued an order in each cause sentencing Bradley to all of his four-year stayed sentence in Cause 177, two years of his two-and-one-half-year suspended sentence in Cause 141, and all of his two-year suspended sentence in Cause 234. This appeal ensued.

Discussion and Decision

[9] Bradley asserts that the trial court abused its discretion by revoking four years of his suspended sentences in Causes 141 and 234. We disagree.

[10] “Probation is a matter of grace left to trial court discretion.” *Murdock v. State*, 10 N.E.3d 1265, 1267 (Ind. 2014). Upon finding that a defendant has violated a condition of his probation, the trial court may “[o]rder execution of all or part of the sentence that was suspended at the time of initial sentencing.” Ind. Code § 35-38-2-3(h)(3). In determining the appropriate sanction upon finding a probation violation, trial courts are not required to balance aggravating and mitigating circumstances. *Treece v. State*, 10 N.E.3d 52, 59 (Ind. Ct. App. 2014), *trans. denied*. So long as the trial court follows the procedures outlined in Indiana Code Section 35-38-2-3, the court may properly order execution of a suspended sentence upon a finding of a single violation by a preponderance of the evidence. *Killebrew v. State*, 165 N.E.3d 578, 582 (Ind. Ct. App. 2021), *trans. denied*.

[11] We review the trial court’s decision following the revocation of probation for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances or when the trial court misinterprets the law.” *Id.* (citations omitted). In determining whether the trial court abused its discretion, we do not reweigh the evidence or judge witness credibility and will consider only the evidence most favorable to the trial court’s decision. *Ripps v. State*, 968 N.E.2d 323, 326 (Ind. Ct. App. 2012).

[12] In arguing that revoking four years of his suspended sentences was an abuse of discretion, Bradley characterizes his violations as “technical.” Appellant’s Br. at 9. He explains that he attended some MRT classes, but after a “handful” of

unexcused absences, he was notified that if he missed any more classes, he would have his probation violated. *Id.* at 11. Subsequently, he arrived one minute late for an MRT class and was not allowed to participate. After that, he was nervous and stopped reporting to probation. He emphasizes that despite these violations, he found a stable place to live, maintained consistent employment, did not engage in further criminal acts, did not consume any illegal substances, and turned himself in.

[13] We observe that prior to committing the instant probation violations, Bradley had already violated probation by engaging in the same criminal act, auto theft, for which he had been convicted in Cause 177. Within months of being released on probation the second time, Bradley failed to attend any MRT classes in February 2023. We agree with the State that “[t]herapeutic services are key to the rehabilitative function of probation[,] and Bradley’s failure to seize the opportunities for rehabilitation shows his dis-interest in becoming a non-criminal member of society.” Appellee’s Br. at 9. Further, Bradley did not merely overlook reporting his new address; he admitted at the hearing that he was “hiding out.” Tr. Vol. 2 at 36. In addition, at forty-two years of age, Bradley has a lengthy criminal history in both Indiana and Ohio, which, in addition to his convictions in this case, includes numerous juvenile adjudications, numerous misdemeanor convictions, and felony convictions for grand theft of a motor vehicle, receiving stolen property, attempted theft, and operating a motor vehicle while intoxicated. Bradley admitted that he has violated probation more than he has complied. *Id.* at 37. Bradley’s argument is

an invitation to reweigh the evidence, which we must decline. We find no abuse of discretion and therefore affirm.

[14] Affirmed.

Brown, J., and Felix, J., concur.