

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Tom Watson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 11, 2023

Court of Appeals Case No.
23A-CR-1191

Appeal from the Madison Circuit
Court

The Honorable Angela Warner
Sims, Judge

Trial Court Cause No.
48C01-1706-F5-1594

Memorandum Decision by Judge Brown
Judges Vaidik and Bradford concur.

Brown, Judge.

[1] Tom Watson appeals the revocation of his probation. We affirm.

Facts and Procedural History

[2] In 2017, the State charged Watson with intimidation and operating a vehicle after forfeiture of license for life as level 5 felonies and invasion of privacy as a class A misdemeanor. On May 29, 2018, Watson and the State entered into a plea agreement pursuant to which Watson would plead guilty as charged. The agreement provided the State would recommend a “cap of three (3) years on the executed portion, limited to Community Corrections.” Appellant’s Appendix Volume II at 106. In June 2018, the trial court issued a sentencing order stating that the total length of Watson’s sentence was four years with 730 days executed and 730 days suspended, that the balance of the executed time was 323 days, that he was placed on probation for 730 days, and “Community Corrections Granted to 323 days on the Continuum of Sanctions Program.” *Id.* at 145 (capitalization omitted).

[3] On August 12, 2022, the State filed a “Notice of Continuum of Sanctions / Work Release Termination” alleging that, “[b]etween 7/6/2022 and 8/11/2022 [Watson] accumulated 20 hours and 19 minutes of unaccounted time,” on August 11, 2022, he committed the new offense of failure to return to lawful detention as a level 6 felony and his whereabouts were unknown, and as of August 11, 2022, he failed to pay CJC program fees and was in arrears in the

amount of \$1,972.25. *Id.* at 189. On October 10, 2022, the court “revoke[d] 32 days to the Madison County Detention Center.” *Id.* at 206.

[4] On November 28, 2022, the State filed a “Notice of Violation of Suspended Sentence” alleging Watson failed to successfully complete the Continuum of Sanctions Program. *Id.* at 216. On January 3, 2023, the court issued a “Sanctions Order” finding that Watson “violated the conditions of COS” because he failed to abstain from the use of illicit drugs, refused to obey an order from staff, intimidated staff or participants, and failed to pay program fees and stating that, “[b]y agreement of the parties, the Court hereby revokes 365 days originally ordered to probation to COS for a total remaining sentence of 444 days to be served on COS.” *Id.* at 231.

[5] On February 14, 2023, the State filed a “Notice of Work Release / Continuum of Sanctions Termination” stating “[t]he Community Justice Center is seeking termination of Work Release Program privileges for the following rule violation(s)” and alleging that, “[o]n 02/08/2023, [Watson] committed the Work Release Violation of Circumventing Security Measures, Disrespect to Staff, and Disorderly Conduct, thus causing injuries to a correctional staff member” and that, as of February 13, 2023, he failed to meet the financial obligations of the work release program and owed \$1,167.18. *Id.* at 234.

[6] On April 3, 2023, the court held an evidentiary hearing. Kejjiana Taylor, a correctional officer with Madison County Work Release in early February 2023, testified that Watson informed her that he had an appointment, she told

him to wait until she could verify the appointment, he was persistent that he needed to leave immediately, “there was chaos in the dorm,” and “as [she was] closing the door, . . . he pushed on it.” Transcript Volume II at 12-13. She indicated Watson then went to another door to the dorm, she was “trying to close the door,” Watson was “pulling on it,” she told him “[l]et go of this door right now,” “as [she was] closing the door, he’s pulling on the door,” and “that’s when [her] arm got injured.” *Id.* at 14-15. She indicated that she had a sprain to her left wrist and, “when he pulled the door, [her] hand was on the . . . doorknob, and so with the force that he opened the door [], [she] kind of went forward with it and it caused pain to [her] wrist that ended up going to [her] shoulder.” *Id.* at 15. She indicated that Watson was “[v]ery belligerent” during the interactions. *Id.* at 17. The State also introduced a video recording of the incident.

[7] On April 20, 2023, the court issued a “Violation Order” which provided:

The court taking into consideration evidence presented at the evidentiary hearing held on 4/3/2023 and State’s Exhibit (video surveillance) now finds by a preponderance of the evidence that [Watson] has violated the terms and conditions of his sentence.

The court specifically finds that [Watson] violated his sentence by violating the rules at the work release facility by being disrespectful to staff and engaging in disorderly conduct, which caused injury to staff Staff testified that [Watson] was being belligerent and refusing to follow protocol on how to exit the facility after staff had told [Watson] his appointment needed to be verified. [Watson] can be observed on the video acting agitated and upset. He goes to 2 different doors trying to get staff’s attention. He can be seen pulling on one of the doors and

then after it shuts, he hits the door with his elbow. [Watson] is also seen at a second door trying to keep the door open when staff is trying to shut it and even inserts his body in the doorway to prevent it from shutting.

The court further finds that [Watson] is in arrears in the amount of \$1,167.18 in his work release rent. . . . Sanctions hearing is scheduled for May 1, 2023

Appellant's Appendix Volume II at 241.

- [8] On May 1, 2023, the court held a sanctions hearing. Watson's son indicated he was requesting that the court allow Watson to be placed on in-home detention, Watson had a job waiting for him at the racetrack, he was hoping Watson could be home and take care of Watson's fifteen-year-old daughter, and Watson also had employment through a temporary agency. Watson testified "I'm disabled, but . . . I worked at the race track," "I also worked for General Motors," "when . . . I would get off of work from . . . General Motors . . . I would go straight to Man For Man," "I'm a very important part of Man For Man," "I'm a mentor to the young ones," and "I lead to church, I sign [sic] gospel, that's what I want to do." Transcript Volume II at 34. When asked "we're here on a violation where you're being disrespectful to staff, why do you think that means you should go on in-home detention," Watson replied "if you look, review . . . the camera from the other side, you would see that she was totally disrespectful to me," "I have had problems . . . with Ms. Taylor many times," "I have wrote a grievance against her, there was nothing done," and "I have never disrespect anybody over there." *Id.* at 36.

[9] The prosecutor argued “the state believes that if he were to go back onto work release, that we’d be back here very shortly again” and “I think it’s appropriate for the court to send him to the Department of Correction[] and close this case out.” *Id.* at 38. Watson’s counsel argued that Watson believed he could make a home for himself and his daughter, he had employment opportunities, and he was requesting in-home detention. The court stated:

The court did watch the video . . . and . . . made appropriate inferences from the body language and Mr. Watson’s actions that were clear on the video, that he stuck his foot in the door to try to keep the door from closing and he also hit the door or the area right outside the door after there had been some other exchange between him and staff. Mr. Watson, you may not be wrong in that maybe things that were said to you weren’t nice or maybe from your perspective they weren’t respectful, but it doesn’t give you the right to act the way you did in this case. The fact that this third violation here under the Continuum of Sanctions Program, the court’s really left with little choices here today. The court does not believe it’s appropriate to give you the lesser level of supervision than where you were at the time you violated. I believe the court was pretty clear in January what the consequences would be if there was another violation.

The court finds that revocation of the balance of the sentence is appropriate at this time. The court orders the four hundred and forty-four (444) days revoked to the Indiana Department of Correction[], less the credit time

Id. at 39-40.

Discussion

[10] Watson asserts the trial court “abused its discretion by revoking [his] sentence to the Indiana Department of Correction[]” and that “[t]he sanction should be vacated, and the case remanded.” Appellant’s Brief at 10. Ind. Code § 35-38-2-3(h) provides:

If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the 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.

[11] We review trial court probation violation determinations and sanctions for an abuse of discretion. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013). Probation is a matter of grace. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). The Indiana Supreme Court has explained that “[o]nce a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed” and that, “[i]f this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.” *Id.* We consider only the evidence most favorable to the

judgment and will not reweigh the evidence or judge the credibility of the witnesses. *Vernon v. State*, 903 N.E.2d 533, 536 (Ind. Ct. App. 2009), *trans. denied*.

[12] The trial court found that Watson violated the rules at the facility by being disrespectful to staff and engaging in disorderly conduct which caused an injury to staff. The court noted that Watson inserted his body in the doorway to prevent the door from closing. The State presented testimony regarding Watson's actions and the injury to Taylor's wrist. The record also reveals that Watson had prior violations. We find no abuse of discretion.

[13] For the foregoing reasons, we affirm the trial court.

[14] Affirmed.

Vaidik, J., and Bradford, J., concur.