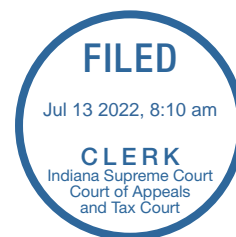


## MEMORANDUM DECISION

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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Roy Debose,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

July 13, 2022

Court of Appeals Case No.  
22A-CR-227

Appeal from the Posey Circuit  
Court

The Honorable Craig S. Goedde,  
Judge

Trial Court Cause Nos.  
65C01-2105-F6-243  
65C01-2105-F6-284

**Weissmann, Judge.**

[1] Roy Debose claims the trial court improperly revoked his 18-month suspended sentence because he left a substance abuse treatment program he could not afford. But that violation was not the only basis for the revocation. Debose also fails to convince us that the revocation of his entire suspended sentence was an abuse of discretion. We affirm.

## Facts

[2] Debose was arrested and charged with two counts of Level 6 felony maintaining a common nuisance, one count of Level 6 felony possession of methamphetamine, and one count of Class C misdemeanor possession of paraphernalia. He was released on bond under the condition that he participate in ACCEPT, a pretrial drug treatment program administered by the Posey County Probation Department.

[3] But Debose did not participate in ACCEPT. Eventually, he was arrested for his failure to report to probation and pleaded guilty to his initial charges. Under the plea agreement accepted by the trial court, the State recommended an aggregate 18-month sentence suspended to probation. In exchange, Debose agreed to obtain a substance abuse evaluation and comply with any ensuing recommendations.

[4] Debose dutifully reported to an evaluation with Southwestern Behavioral Healthcare and was immediately admitted to their in-patient substance abuse treatment program. Four days into the 28-day program, however, Debose self-discharged, “stating he needed to return to work.” Exhs. Vol. III, p. 7. Debose later testified that he left because Southwestern charged \$118 a day, more than

what he made in his job hanging gutters. Debose testified that he believed Southwestern had applied for State assistance on his behalf, but the application was denied, meaning he would have to pay for the program himself.

- [5] Upon leaving Southwestern, Debose did not contact the probation department. He later testified that he should have contacted his probation officer, but instead he “tried to do a few days work and get some money . . . .” Tr. Vol. II, p. 71. The State petitioned to revoke Debose’s probation eight days after he left Southwestern, citing his failure to complete treatment, his failure to report to his probation officer, and his failure to pass two drug tests. The trial court revoked probation and ordered Debose to serve the balance of his 18-month sentence in the Department of Correction. Debose now appeals.

## Discussion and Decision

- [6] “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Phipps v. State*, 177 N.E.3d 123, 125 (Ind. Ct. App. 2021) (citing *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). We review probation revocations for an abuse of that discretion. *Id.* We consider only the evidence most favorable to the judgment without reweighing that evidence or judging the credibility of witnesses. *Id.* We will affirm revocation if there is substantial evidence to support the trial court’s conclusion that “a defendant has violated *any* terms of probation.” *Smith v. State*, 963 N.E.2d 1110, 1112 (Ind. 2012) (emphasis added).
- [7] Debose argues that the trial court revoked his probation in violation of statute. Generally, the trial court may revoke a person’s probation if the person has

violated a condition of probation during the probationary period and the State timely files to revoke. Ind. Code § 35-38-2-3(a). However, “[p]robation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.” Ind. Code § 35-38-2-3(g). Claiming he left drug treatment because he could not afford it, Debose argues that revocation on this basis was an abuse of discretion.

[8] Debose’s testimony supports his assertion that the treatment ordered was a financial burden. *See* Tr. Vol. II, pp. 68-70. Treatment cost more than his wages, and his family had just been evicted. *Id.* By centering his own testimony, Debose improperly requests this Court reweigh the evidence. Though he believes he was denied assistance, Debose’s probation officer testified that she planned to assist Debose in applying for grant funds but he never reached out for help.

[9] Moreover, the trial court focused on Debose’s inaction upon leaving treatment in rendering its decision.

[T]he fact that you left [Southwestern] by itself probably wouldn’t get me to revoke you completely . . . but then there was zero contact with the Probation Department after that. And sitting here today, sir, you knew that you should have made contact with Ms. Thompson and reported back with her. . . . [Y]ou didn’t do any of that. So all we can do is presume that you’re out there on the run, or out there doing some other things that you’re not supposed to be doing. You clearly didn’t want to be supervised by our Probation Department and that part is absolutely clear . . . . [I]t’s really difficult for me to accept your attorney’s plea that I

put you back on community supervision . . . because you can't follow the rules of community supervision.

Tr. Vol. II, p. 79. Debose acknowledged that he should have reported to his probation officer, a requirement he was familiar with at the very least because he had previously been arrested for failing to do so.

[10] Because substantial evidence supported the trial court's finding of probation violations beyond Debose's alleged "failure to comply with conditions of a sentence that imposes financial obligations on the person," the court did not abuse its discretion in finding Debose violated his probation. *See* Ind. Code § 35-38-2-3(a), (g).

[11] Nor did it abuse its discretion in revoking Debose's entire suspended sentence. Trial courts enjoy broad discretion in determining the appropriate sanction for a probation violation, and we review only for an abuse of that discretion. *Prewitt*, 878 N.E.2d at 188. Released on bond to attend an addiction program, Debose failed to do so and was arrested. After pleading guilty to the present charges, he left his 28-day in-patient program after only 4 days. He failed to contact his probation officer and let her know of his whereabouts. In fully revoking Debose's suspended sentence, the trial court observed that Debose had shown that he "can't follow the rules of community supervision." Tr. Vol. II, p. 79.

[12] Debose has failed to show the revocation of his entire 18-month sentence was an abuse of discretion. The trial court is therefore affirmed.

Robb, J., and Pyle, J., concur.