

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Jordan Reed,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

August 23, 2023

Court of Appeals Case No.  
23A-CR-568

Appeal from the Madison Circuit  
Court

The Honorable David A. Happe,  
Judge

Trial Court Cause Nos.  
48C04-2209-F6-2640  
48C04-2211-F6-3188

**Memorandum Decision by Judge Weissmann**  
Judges Riley and Bradford concur.

## **Weissmann, Judge.**

- [1] Jordan Reed violated the terms of his probation in several ways, including using drugs while committed to a work release facility. The trial court therefore revoked his probation and ordered him to serve his entire sentence in prison. Reed appeals that judgment, claiming that his violations were too minor and his drug addiction too great to justify the sanction he received. We affirm, finding the trial court did not abuse its discretion.

## **Facts**

- [2] Under a consolidated plea agreement, Reed pleaded guilty to separate charges of Level 6 felony theft and Level 6 felony auto theft. In accordance with that agreement, the trial court sentenced Reed to concurrent sentences of 910 days in the Indiana Department of Correction (DOC), with 365 days executed as a direct commitment to work release and 545 days suspended to probation. As a condition of Reed's probation, the court ordered Reed to complete his executed sentence.
- [3] Two months later, the State petitioned to terminate Reed's direct commitment to work release. The petition alleged Reed had violated the terms of his work release contract by disrespecting staff, refusing to obey orders, failing a drug screen, being absent without authorization, and not meeting his financial obligations. The State petitioned to revoke Reed's probation based on the same allegations.

[4] After an evidentiary hearing, the trial court determined that Reed had violated the terms of both his direct commitment and his probation. The court revoked his direct commitment. The court also revoked Reed’s probation for 223 of the 545 days of imprisonment originally suspended to probation. App. Vol. II, p. 139. Given that Reed had not completed the original executed portion of his sentence at the time of these revocations, the court’s order meant that Reed would serve 570 days in prison, with credit for 116 days served and 116 days “good time credit.” *Id.*

[5] The revocation order also required that “[u]pon completion of the executed sentence[, Reed] is to return to probation for 200 days under all original terms and conditions as previously ordered.” *Id.* It also directed Reed to undergo a substance abuse evaluation and follow all resulting recommendations.

## **Discussion and Decision**

[6] Reed does not challenge the trial court’s finding that he violated the terms of both his direct commitment and his probation. Instead, he claims the sanction imposed by the trial court for his probation violation was disproportionate to his violations. We find no error.

[7] “Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed.” *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). Accordingly, we review a trial court’s sentencing decisions for probation violations using the abuse of discretion standard. *Id.* “An abuse of discretion occurs where the

decision is clearly against the logic and effect of the facts and circumstances.”

*Id.*

[8] The trial court had three options when sanctioning Reed for his violations. It could have: (1) continued Reed’s probation, “with or without modifying or enlarging the conditions”; (2) extended Reed’s probation “for not more than one . . . year beyond the original probationary period”; or (3) “order[ed] execution of all or part of the sentence that was suspended at the time of initial sentencing.” Ind. Code § 35-38-2-3(h). Reed appears to concede that revocation was appropriate. But he argues that his violations were minor and merited a lesser sanction than the trial court imposed.<sup>1</sup>

[9] Only part of Reed’s violations could be viewed as minor: (1) Reed’s disrespectful comments to the community corrections officers; and (2) his failure to pay fees, which was prompted by his lack of unemployment due to scheduling errors for which Reed was not responsible. The rest of Reed’s violations are significant.

[10] Shortly after Reed began serving his sentence in work release, he was absent from the facility for at least two hours without anyone’s knowledge of his whereabouts. Only a month after that, Reed was disruptive and tested positive

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<sup>1</sup> Reed’s brief misstates his sanction. He relies upon the sanction imposed by the trial court at the revocation hearing. But a week later the court entered a “Corrected Sanction Order” that revoked a smaller portion of Reed’s suspended sentence. Reed attached that amended judgment to his brief and included it in his appendix but ignored it in his brief.

for methamphetamine, amphetamine, and fentanyl. Reed contends those violations were related to his continuing struggles with substance abuse. He views the violations as suggesting the need for more treatment, not longer incarceration. But the record reveals no efforts by Reed to avail himself of rehabilitative efforts to address his addiction. Moreover, the trial court's amended judgment specifically incorporates a drug rehabilitation component.

[11] Probation is a matter of grace, not a right to which a criminal defendant is entitled. *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013) (quoting *Prewitt*, 878 N.E.2d at 188). Through Reed's refusal to follow community corrections officers' orders and otherwise adhere to the work release rules, he showed a lack of recognition of this rehabilitation opportunity or the gravity of his situation. Reed's continued drug use while in a secure facility also demonstrated the need for more restrictive measures. Given these circumstances, the trial court did not abuse its discretion by revoking only 223 days of Reed's previously suspended sentence and returning him to probation after his incarceration. *See, e.g., Puckett v. State*, 183 N.E.3d 335, 339 (Ind. Ct. App. 2022) (trial court did not abuse its discretion in ordering a *fully* executed sentence for the defendant after he failed a drug test while in home detention one month after sentencing ).

[12] We affirm the trial court's judgment.

Riley, J., and Bradford, J., concur.