

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Joseph Charles Snyder,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

September 26, 2023

Court of Appeals Case No.
23A-CR-100

Appeal from the Howard Superior
Court

The Honorable William C.
Menges, Judge

Trial Court Cause Nos.
34D01-2102-F6-432
34D01-2006-F4-1558
34D01-1710-F5-1241

Memorandum Decision by Judge Pyle

Judges Vaidik and Mathias concur.

Pyle, Judge.

Statement of the Case

[1] Joseph Charles Snyder (“Snyder”) appeals the termination of his placement in a drug court program in three separate causes, including one probation cause and two new offense causes. He argues that the trial court abused its discretion by: (1) terminating his drug court placement; and (2) ordering him to serve the remainder of his suspended sentence in his probation cause and sentencing him in his two new offense causes. Concluding that the trial court did not abuse its discretion by revoking Snyder’s placement or by imposing the sanction and sentences for the three causes as set forth in Snyder’s relevant plea agreement, we affirm the trial court’s judgment. However, we remand to the trial court to correct certain discrepancies found in the trial court’s sentencing order, abstract of judgment, and chronological case summary entry in one of Snyder’s new offense causes, as explained in further detail below.

[2] We affirm and remand.

Issues

1. Whether the trial court abused its discretion by terminating Snyder’s drug court placement.
2. Whether the trial court abused its discretion by ordering Snyder to serve the remainder of his suspended sentence in his probation cause and sentencing Snyder in his two new offense causes.

Facts

- [3] In October 2017, the State charged Snyder, under cause 34D01-1710-F5-1241 (“Cause 1241”), with Count 1, Level 5 felony unlawful possession of a syringe; Count 2, Level 6 felony possession of a narcotic drug; and Count 3, Class C misdemeanor possession of paraphernalia. In August 2018, Snyder pled guilty to a lesser-included offense of Level 6 felony unlawful possession of a syringe in exchange for the State’s dismissal of the remaining two charges. The trial court imposed a sentence of 913 days, with twelve (12) days executed and 901 days suspended to supervised probation.
- [4] In June 2020, Snyder committed new offenses, and the State charged him, under cause 34D01-2006-F4-1558 (“Cause 1558”), with Count 1, Level 4 felony unlawful possession of a firearm by a serious violent felon; Count 2, Level 6 felony possession of a narcotic drug; and Count 3, Level 6 felony unlawful possession of a syringe.
- [5] On January 15, 2021, in Cause 1241, Snyder filed an admission to violating probation in lieu of the State filing a petition to revoke his probation. Snyder admitted that he had violated his probation by missing drug screens and by failing drug screens, including testing positive for methamphetamine, cocaine, opiates, and fentanyl. The trial court kept Snyder on probation and ordered him to serve ninety (90) actual days in a community corrections work release program.

- [6] Two weeks later, on January 31, 2021, Snyder committed another new offense when he escaped from the work release program. The State then charged Snyder with Level 6 felony escape in cause 34D01-2102-F6-432 (“Cause 432”). The trial court issued a warrant for Snyder’s arrest in Cause 432.
- [7] Thereafter, in February 2021, the State filed, in Cause 1241, a petition to revoke Snyder’s suspended sentence. The trial court issued a warrant for Snyder’s arrest in Cause 1241.
- [8] In Cause 1558, the trial court set a jury trial for April 23, 2021, but Snyder failed to appear for trial. The trial court then issued a warrant for Snyder’s arrest in that cause as well. In October 2021, the Sheriff’s Department served the arrest warrants for all three causes and arrested Snyder.
- [9] In January 2022, the parties filed a recommendation of plea agreement in all three causes. In the recommendation, the parties indicated that Snyder would admit to violating probation in Cause 1241 and would plead guilty to Level 6 felony possession of a narcotic drug and Level 6 felony unlawful possession of a syringe in Cause 1558 and to escape in Cause 432. The parties also set forth sentencing recommendations for the three causes and provided that the sentences in the three causes would run consecutively. Specifically, the recommendation provided as follows: (1) in Cause 1241, Snyder would serve his remaining suspended sentence; (2) in Cause 1558, Snyder would be sentenced to a two and one-half (2½) year sentence for each of his Level 6 felony convictions, with the two sentences to run concurrently with each other,

and Snyder would serve that sentence in the Indiana Department of Correction (“DOC”); and (3) in Cause 432, he would be sentenced to a two and one-half (2½) year sentence for his Level 6 felony escape, with six (6) months executed in the DOC and the remaining twenty-four (24) months on supervised probation with attendance in a drug and alcohol program.

[10] In February 2022, Snyder sent the trial court a letter relating to all three of his causes. Snyder stated that “substance abuse [had been] ruining [his] life” and that he would be willing to plead to the Level 4 felony in Cause 1558, in addition to the Level 6 felonies, if the trial court would allow him to enter the Howard County Drug Court Program (“the drug court program”). (App. Vol. 2 at 174, 243).

[11] Thereafter, the parties entered into another plea agreement for all three causes. In this updated plea agreement, Snyder agreed that he would admit to violating probation in Cause 1241 and that he would plead guilty to all three charges in Cause 1558 (Level 4 felony unlawful possession of a firearm by a serious violent felon, Level 6 felony possession of a narcotic drug, and Level 6 felony unlawful possession of a syringe) and to escape in Cause 432. The plea agreement provided that Snyder would enter into the drug court program, and the agreement contained the following specific sentencing provisions that were dependent upon Snyder’s success or failure in the drug court program:

Should [Snyder] successfully complete the Howard County Drug Court Program[,] he shall be sentenced as follows:

[Cause 432]: Escape

[Snyder] shall be sentenced to twenty[-]four (24) months supervised probation, consecutive to [Cause 1241];

[Cause 1558:] shall be dismissed;

[Cause 1241:] PTR [petition to revoke probation] shall be dismissed.

Should [Snyder] fail the Howard County Drug Court Program, this matter shall be set for sentencing and [Snyder] shall be sentenced as follows:

[Cause 1558]:

Count I: [Snyder] shall be sentenced to the DOC for a period of twelve (12) years; Counts II and III: [Snyder] shall be sentenced to two (2) years, all executed.

All counts to run concurrently.

[Cause 432]:

[Snyder] shall be sentenced to the DOC for a period of thirty (30) months, all executed.

[Cause 1241]:

[Snyder] shall be sentenced to the DOC to execute the remainder of his sentence.

These sentences shall run consecutively.

(Appellee's App. Vol. 2 at 7-8).¹

¹ After Snyder filed his Appellant's Brief and Appendix in this appeal, the State filed, with the trial court, a motion to correct the Clerk's Record. The State filed this motion pursuant to Indiana Appellate Rule 32(A), which provides, in relevant part, that [i]f a disagreement arises as to whether the Clerk's Record . . . accurately discloses what occurred in the trial court . . . , any party may move the trial court . . . to resolve the disagreement." Appellate Rule 32(A) also provides that "[t]he trial court . . . shall issue an order, which shall become part of the Clerk's Record, that . . . corrects the Clerk's Record . . . , including the chronological case summary if necessary; to reflect what actually occurred."

In its motion, the State noted that the parties' most recent plea agreement, upon which Snyder had pleaded guilty during his March 2022 guilty plea hearing and upon which the parties and the trial court had relied, had apparently not been filed and included in the Clerk's Record or on the chronological case summary

[12] On March 9, 2022, the trial court held a guilty plea hearing in all three of Snyder's causes.² At the beginning of the hearing, the trial court confirmed that Snyder had agreed to plead guilty pursuant to the most recent plea agreement. Snyder then pled guilty, in Cause 432, to Level 6 felony escape and admitted that he had knowingly or intentionally removed a GPS tracking device. In Cause 1558, Snyder pled guilty to Level 4 felony unlawful possession of a firearm by a serious violent felon, Level 6 felony possession of a narcotic drug, and Level 6 felony unlawful possession of a syringe. The parties also stipulated that the probable cause affidavits for Cause 432 and Cause 1558 provided the factual basis for Snyder's new offenses to which he had pled guilty. In Cause 1241, Snyder admitted that he had violated probation by committing new criminal offenses, including possessing a firearm when he had been previously convicted of a serious violent felony, possessing heroin, possessing a syringe, and removing his GPS tracking device. Snyder told the trial court that he wanted to "enter [a] plea of guilty pursuant to the plea agreement[.]" (Supp.

("CCS"). The State requested the trial court to order the filing of the relevant plea agreement and to note it on the CCS in each of Snyder's three causes. The trial court granted the State's motion. The State included a copy of the plea agreement and the trial court's order in its Appellee's Appendix.

Additionally, the State requested the trial court to transmit the trial court's order and the plea agreement as required by Appellate Rule 32(B), which provides that "[t]he trial court clerk shall transmit to the Court on Appeal . . . the trial court's order . . . and any corrections to the Clerk's Record[.]" We note, however, that the trial court has yet to transmit the requested information. Because the information has been included in Appellee's Appendix, we will proceed with our review of this appeal. We do, however, remind the trial court that, pursuant to Appellate Rule 32(A), it is required to file its order and the plea agreement with the trial court clerk and correct the CCS "to reflect what actually occurred."

² We note that, in Snyder's notice of appeal, he did not request the transcription of this March 2022 guilty plea hearing. The State filed a motion to compel Snyder to request a copy of this guilty plea transcript to be made part of the record on appeal, and this Court granted the State's motion. We will cite to the transcript of the guilty plea as "Supp. Tr."

Tr. Vol. 2 at 8). The trial court accepted Snyder's guilty pleas and his admission to violating probation, referred the three causes to the drug court program, and deferred entry of any judgments of conviction pending Snyder's participation in the drug court program. The trial court released Snyder and ordered him to be equipped with a GPS tracking monitor. The trial court also ordered Snyder to reside at a sober living facility and required him to follow all the rules associated with the facility. As part of Snyder's participation in the drug court program, he agreed, among other things, to appear for all scheduled court appearances and appointments and to abide by the rules and conditions for the drug court program as set forth by the trial court.

[13] On July 11, 2022, Mike Kennedy, who was a field officer for the drug court program ("Drug Court Field Officer Kennedy"), received a tamper alert concerning Snyder's GPS monitor. Drug Court Field Officer Kennedy went to the location indicated on the alert, and he found Snyder's GPS monitor abandoned in a field with no sight of Snyder. Drug Court Field Officer Kennedy retrieved the monitor and notified the trial court. That same day, the trial court entered an order finding Snyder in indirect contempt of court for "violat[ing] the terms and conditions of the Drug Court Program," and the trial court issued an warrant for Snyder's arrest. (App. Vol. 2 at 102, 186; App. Vol. 3 at 6).

[14] Four months later, on November 8, 2022, the Howard County Sheriff's Department arrested Snyder. The following day, on November 9, 2022, the drug court coordinator filed a notice to terminate Snyder's placement in the

drug court program in all three causes based on Snyder's act of "absconding" from the drug court program and "violating the terms and conditions of the Drug Court Program." (App. Vol. 2 at 191; App. Vol. 3 at 12).

[15] In December 2022, the trial court held a fact-finding hearing in all three causes. During the hearing, Kerri Rodriguez, who was a probation officer and worked in the drug court program ("Probation Officer Rodriguez"), testified that she was familiar with Snyder and his participation in the drug court program. Probation Officer Rodriguez testified that Snyder had "absconded" by removing his GPS monitor. (Tr. Vol. 2 at 6). Drug Court Field Officer Kennedy also testified that Snyder had removed his GPS monitor and had left it in a field in July 2022. Drug Court Field Officer Kennedy testified that if Snyder would have appeared for any drug court hearings after the warrant had been issued in July 2022, then he would have been taken into custody.

[16] The trial court took judicial notice of the pleadings and proceedings in all three causes. The trial court noted that these records revealed that Snyder had never appeared for a drug court program hearing until he had been arrested in November 2022. At the conclusion of the hearing, the trial court determined that the State had met its burden of proving that Snyder had violated the terms and conditions of the drug court program, and the trial court terminated Snyder's placement in the program. When the trial court started to discuss Snyder's sanction for Cause 1241 and sentencing for Cause 1558 and Cause 432, the parties discussed the fact that Snyder had entered into an updated plea agreement prior to entering the drug court program. Thereafter, the trial court

entered Snyder's sanction for Cause 1241 and his sentencing for Cause 1558 and Cause 432 pursuant to that updated plea agreement. Specifically, in Cause 1241, the trial court ordered Snyder to serve his remaining suspended sentence, which the trial court determined to be 907 days. In Cause 1558, the trial court entered judgments of conviction on Snyder's three offenses to which he had previously pleaded guilty and imposed a twelve (12) year sentence for Snyder's Level 4 felony unlawful possession of a firearm by a serious violent felon conviction, a two (2) year sentence for his Level 6 felony possession of a narcotic drug conviction, and a two (2) year sentence for his Level 6 felony unlawful possession of a syringe conviction. The trial court ordered that these convictions in Cause 1558 be served concurrently.³ In Cause 432, the trial court entered judgment of conviction on Snyder's Level 6 felony escape offense to which he had previously pleaded guilty and imposed a two and one-half (2½) year sentence for that conviction. The trial court ordered that the sentences from all three causes be served consecutively, resulting in an aggregate sentence of seventeen (17) years to be executed in the DOC.

[17] Snyder now appeals.

³ When the trial court issued its sentencing order, abstract of judgment, and CCS sentencing entry for Cause 1558, the trial court indicated that it had imposed a twelve (12) year sentence for Snyder's Level 4 felony unlawful possession of a firearm by a serious violent felon conviction, a two and one-half (2½) year sentence for his Level 6 felony possession of a narcotic drug conviction, and a two and one-half (2½) year sentence for his Level 6 felony unlawful possession of a syringe conviction. Due to the trial court's clerical error in these sentencing documents, we remand to the trial court with instructions to correct the sentencing order, abstract of judgment, and CCS to reflect that the trial court imposed, consistent with Snyder's relevant plea agreement, a two (2) year sentence on each of Snyder's Level 6 felony convictions in Cause 1558.

Decision

[18] Snyder argues that the trial court abused its discretion by: (1) terminating his drug court placement; and (2) ordering him to serve the remainder of his suspended sentence in Cause 1241 and sentencing him in Cause 1558 and Cause 432. We will review each argument in turn.

1. Termination of Drug Court Placement

[19] Snyder argues that the trial court abused its discretion by terminating his placement in the drug court program. Snyder argues that the trial court erred by determining that the State had met its burden of proving that Snyder had violated the terms of his drug court program placement by absconding from the program. He contends that “[t]here is no evidence in the record on appeal that Snyder violated the terms of his participation in [the] drug court [program].” (Snyder’s Br. 12). We disagree.

[20] In exchange for being placed in the drug court program, Snyder admitted that he had violated his probation in Cause 1241 and pled guilty to committing new offenses in Cause 1558 and Cause 432. Pursuant to INDIANA CODE § 33-23-16-14, the trial court, without entering a judgment of conviction, deferred proceedings against Snyder in his three causes and placed him into the drug court program.⁴ “The Drug Court program is a forensic diversion program akin

⁴ A drug court is a problem solving court. *See* I.C. § 32-33-16-11(1).

to community corrections, and we will review the termination of placement in a Drug Court program as we do a revocation of placement in community corrections.” *Withers v. State*, 15 N.E.3d 660, 663 (Ind. Ct. App. 2014). The State is required to prove an alleged violation of the drug court program by a preponderance of the evidence. I.C. § 33-23-16-14.5(c)(1). If a trial court finds that an individual participating in a drug court program has violated a term of the program, the trial court may either continue or terminate the individual's participation in the program. I.C. § 33-23-16-14.5(e). We will review a trial court’s decision to terminate a defendant from a drug court program for an abuse of discretion. *Benitez v. State*, 199 N.E.3d 811, 813 (Ind. Ct. App. 2022). “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.* at 814.

[21] Here, when the trial court had placed Snyder in the drug court program in March 2022, it ordered him to wear a GPS monitoring device. The State presented evidence that, on July 11, 2022, Drug Court Field Officer Kennedy received a tamper alert concerning Snyder’s GPS monitor. Drug Court Field Officer Kennedy went to the location indicated on the alert, and he found Snyder’s GPS monitor abandoned in a field with no sight of Snyder. That same day, the trial court issued a warrant for Snyder’s arrest. Snyder did not appear in court for a hearing until four months later when he was arrested in November 2022. Because there was evidence sufficient to show that Snyder had violated the terms of his drug court program placement by removing his

GPS monitoring device, we affirm the trial court's termination of that placement.⁵

2. Sentencing

- [22] Snyder also argues that the trial court abused its discretion by ordering him to serve the remainder of his suspended sentence in Cause 1241 and sentencing him in Cause 1558 and Cause 432.
- [23] Generally, “[w]e will review a trial court's sentencing decisions for Drug Court violations for an abuse of discretion. *Withers*, 15 N.E.3d at 665. Here, however, Snyder’s sentences were imposed based on the terms of the fixed plea agreement that he had entered with the State. A “‘fixed plea’ is one that specifies the exact number of years to be imposed for sentencing[.]” *Mefford v. State*, 165 N.E.3d 571, 577 (Ind. Ct. App. 2021) (citing *Rodriguez v. State*, 129 N.E.3d 789, 794 (Ind. 2019)), *trans. denied*. “When a court accepts a plea agreement that calls for a fixed sentence, it has no discretion to impose anything other than the precise sentence upon which the parties agreed.” *Mefford*, 165 N.E.3d at 577 (cleaned up).
- [24] Prior to the March 2022 guilty plea hearing, Snyder and the State entered into a plea agreement that contained fixed sentencing provisions that were dependent

⁵ Snyder also attempts to raise a hearsay argument, but we will not address that argument because he did not make a hearsay objection during the hearing. *See Beeler v. State*, 959 N.E.2d 828, 830 (Ind. Ct. App. 2011) (“Generally, an issue is waived for appeal if it is not objected to at trial.”), *trans. denied*.

upon Snyder's success or failure in the drug court program. The agreement provided that if Snyder failed the drug court program, then he would be sentenced in his three causes as follows:

[Cause 1558]:

Count I: [Snyder] shall be sentenced to the []DOC for a period of twelve (12) years; Counts II and III: [Snyder] shall be sentenced to two (2) years, all executed.

All counts to run concurrently.

[Cause 432]:

[Snyder] shall be sentenced to the []DOC for a period of thirty (30) months, all executed.

[Cause 1241]:

[Snyder] shall be sentenced to the []DOC to execute the remainder of his sentence.

These sentences shall run consecutively.

(Appellee's App. Vol. 2 at 8). Therefore, the trial court had no discretion to impose a sentence other than what was contained in Snyder's plea agreement. *See Mefford*, 165 N.E.3d at 577. At the conclusion of the fact-finding hearing, the trial court terminated Snyder's placement in the program and entered Snyder's sanction for Cause 1241 and his sentencing for Cause 1558 and Cause 432 pursuant to that plea agreement. The trial court had no discretion to impose any sentences different than the fixed sentences set forth in Snyder's plea agreement. *See Mefford*, 165 N.E.3d at 577. Accordingly, we affirm the trial court's judgment.

[25] Affirmed and remanded.

Vaidik, J., and Mathias, J., concur.