

Case Summary

Joshua Williams appeals the sentence imposed following the revocation of his probation. We affirm.

Issue

Williams raises one issue, which we restate as whether the trial court abused its discretion when it ordered him to serve the remainder of his suspended sentence following the revocation of his probation.

Facts

In September 2004, the State charged Williams with possession of a schedule IV controlled substance as a Class D felony and being an habitual substance offender. Williams pled guilty as charged, and the trial court sentenced him to an aggregate sentence of three years in home detention and seven years of formal probation.

In January 2006, the probation department filed a petition to revoke Williams's probation. The probation department alleged that Williams consumed alcohol, tested positive for illegal substances, and was seen walking into a bar. Williams admitted to violating his probation, and the trial court ordered Williams to participate in the Hope House Addiction Recovery Program in Richmond. After treatment, Williams resumed his probation.

On July 8, 2009, the probation department filed another petition to revoke Williams's probation. The probation department alleged that Williams had been charged with public intoxication as a Class B misdemeanor and that he was in arrears on his probation user's fees. At a revocation hearing on July 13, 2009, Williams admitted that

he violated his probation. A disposition hearing was set for July 20, 2009. After the disposition hearing, the trial court took the matter under advisement and set the matter for another hearing on August 3, 2009.

On July 27, 2009, the probation department filed an amended petition to revoke Williams's probation. The probation department alleged that Williams had been charged with possession of marijuana as a Class A misdemeanor, conversion as a Class A misdemeanor, and being an habitual substance offender. On August 3, 2009, Williams entered an "admission to [the] amended violation." App. p. 9. The trial court revoked Williams's probation and ordered him to serve the remainder of his seven-year suspended sentence in the Department of Correction.

Analysis

Williams argues the trial court improperly ordered him to serve the remainder of his suspended sentence following the revocation of his probation. "Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled." Prewitt v. State, 878 N.E.2d 184, 188 (Ind. 2007). "The trial court determines the conditions of probation and may revoke probation if the conditions are violated." Id. (citing Ind. Code § 35-38-2-3). A trial court's sentencing decisions for probation violations are reviewable 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. Upon the revocation of probation, the trial court may: (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 year beyond the original

probationary period; and (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing. Ind. Code § 35-38-2-3(g).

Williams argues that he made great strides in recovering from his addiction, that he had a relapse, and that he needs additional treatment instead of an executed sentence in the Department of Correction. Williams relies on the testimony of an addictions counselor from his first probation revocation proceeding in 2006. However, at that time, the trial court ordered drug treatment as requested. Three years later, Williams was before the trial court with three new criminal charges, and Williams admitted to violating his probation again. At the hearing on the current probation violations, Williams's probation officer testified that Williams was "not a good probation candidate at this time" and that Williams had "become relaxed and not taken his addictions seriously." Tr. p. 144. Given the trial court's previous leniency with Williams and his new criminal offenses, we conclude that it was within the trial court's discretion to order Williams to serve the remainder of his suspended sentence following the revocation of his probation.

Conclusion

The trial court did not abuse its discretion in revoking Williams's probation and ordering him to serve the remainder of his sentence. We affirm.

Affirmed.

MATHIAS, J., and BROWN, J., concur.