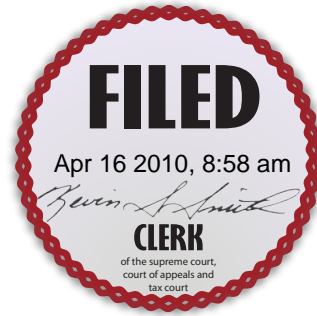


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ACCIE SMITH,)

Appellant-Defendant,)

vs.)

No. 49A04-0909-CR-518)

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Eichholtz, Judge
Cause No. 49G20-0503-FA-35099

April 16, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Accie Smith appeals the sentence imposed following the revocation of his probation. We affirm.

Issue

Smith 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 2006, Smith pled guilty to Class A felony dealing in cocaine. The trial court sentenced him to twenty years with eighteen years suspended. The trial court also sentenced him to two years on probation.

On October 14, 2008, the State filed an amended notice of probation violation alleging that Smith had been charged with three counts of Class C felony forgery in three different counties. The notice also alleged that Smith submitted a drug screen that was positive for marijuana and had failed to make a good faith effort to pay his court ordered fees.

On August 27, 2009, Smith admitted to the probation violations, and the trial court ordered him to serve the remainder of his eighteen-year suspended sentence. Smith now appeals.

Analysis

Smith argues that the trial court abused its discretion when it ordered him to serve the entire suspended sentence. 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). A trial court's sentencing decisions for probation violations are reviewable for an abuse of discretion. Prewitt v. State, 878 N.E.2d 184, 188 (Ind. 2007).

In arguing that the trial court abused its discretion, Smith points out the detrimental effect a long sentence will have on his children, his completion of classes while incarcerated, and the 2006 presentence investigation report in which Smith indicated he suffered from bipolar disorder and depression. Initially, we observe that Smith did not raise the matter of his mental health at the probation revocation hearing and that the basis for this argument is Smith's own recitation of his mental health in the 2006 presentence investigation report. Without more, Smith has not established that the trial court's alleged failure to consider his mental health when it sentenced him on the probation revocation was an abuse of discretion. Further, on three separate occasions over a period of several months, Smith committed forgery. Smith also submitted a drug screen that was positive for marijuana and failed to make a good faith effort toward paying his court fees. Given the quantity and the nature of the probation violations, it was within the trial court's discretion to reinstate Smith's entire suspended sentence.

Conclusion

The trial court did not abuse its discretion when it ordered Smith to serve the remainder of his suspended sentence after his probation was revoked. We affirm.

Affirmed.

BAILEY, J., and MAY, J., concur.