

NAJAM, Judge

STATEMENT OF THE CASE

Chance Carper appeals the trial court's revocation of his probation following a hearing. He presents two issues for review:

1. Whether the evidence is sufficient to support the order revoking his probation.
2. Whether the trial court abused its discretion when it ordered him to serve four years in the Department of Correction ("DOC").

We affirm.

FACTS AND PROCEDURAL HISTORY

On April 20, 2009, Carper pleaded guilty to one count of Sexual Misconduct with a Minor, as a Class B felony, pursuant to a plea agreement. On May 11, the trial court sentenced Carper to ten years but suspended the entire term to formal probation. And on October 24, the State charged Carper with theft, as a Class D felony.

On November 12, the State filed a notice of probation violation, alleging that Carper had violated the terms of his probation by committing the offense of theft. On February 1, 2010, the court held a hearing on the alleged probation violation. At the hearing, Brad Wilson, a co-manager at a Marsh Supermarket in Anderson, testified that on September 23 he had found a liquor bottle security cap on the store shelf. As a result, he had reviewed store security video and observed the theft. He showed the video to Chris Keeley, another store manager, who identified the thief as Carper. Wilson also identified Carper and testified that he had previously seen Carper in the store. Carper's mother and brother also testified at the hearing. Both testified that Carper's mother had

shaved Carper's head at some point on the afternoon of the theft. The trial court viewed the video, which showed a man with long hair stealing the liquor bottle.

At the conclusion of the hearing, the trial court found that Carper had violated the conditions of his probation by committing the offense of theft. As a result, the court revoked Carper's probation and ordered him to serve four years of the suspended sentence in the DOC with the balance of his ten-year sentence to be served on probation. Carper now appeals.

DISCUSSION AND DECISION

Issue One: Sufficiency of Evidence

Carper challenges the trial court's revocation of his probation and order that he serve four years of his sentence in the DOC. We review a trial court's decision to revoke probation under an abuse of discretion standard. Jones v. State, 838 N.E.2d 1146, 1148 (Ind. Ct. App. 2005), trans. denied. A probation hearing is civil in nature and the State need only prove the alleged violations by a preponderance of the evidence. Cox v. State, 706 N.E.2d 547, 551 (Ind. 1999). We will consider all the evidence most favorable to the judgment of the trial court without reweighing that evidence or judging the credibility of witnesses. Id. If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation. Id. The violation of a single condition of probation is sufficient to revoke probation. Wilson v. State, 708 N.E.2d 32, 34 (Ind. Ct. App. 1999). A defendant is not entitled to serve a sentence in a probation program; rather, such

placement is a “matter of grace” and a “conditional liberty that is a favor, not a right.” Jones, 838 N.E.2d at 1148.

Here, Carper argues that the court abused its discretion when it revoked his probation. Specifically, he maintains that the evidence is insufficient to show by a preponderance that he committed the offense of theft. In support, he argues that the court admitted and relied on hearsay evidence without first determining that such evidence was substantially trustworthy. But Carper did not object to the admission of that hearsay evidence. As such, Carper has waived review of the admission of that evidence. See Marsh v. State, 818 N.E.2d 143, 145 (Ind. Ct. App. 2004).

Carper also contends that the evidence is insufficient to support the revocation of his probation because there was conflicting testimony identifying the perpetrator of the theft. Specifically, the store managers observed the theft only on video tape after the fact. Manager Chris Keeley identified the perpetrator on the video as Carper, and manager Brad Wilson testified to that identification at the hearing. Carper argues that the identification evidence is conflicting because his mother and brother both testified that Carper did not have the same hairstyle as the perpetrator on the day of the theft because Carper’s mother had shaved his head that day. But Carper’s mother and brother also testified that they did not remember when on that day Carper’s mother had shaved his head. And they testified that they could not determine whether the person on the surveillance video was Carper. Carper’s argument is merely a request that we reweigh the evidence, which we cannot do. Cox v. State, 706 N.E.2d at 551. Thus, he has not shown that the evidence is insufficient to support the revocation of his probation.

Issue Two: Sentence

Carper next contends that the trial court abused its discretion when it ordered him to serve four years of the suspended ten-year sentence upon the revocation of his probation. In particular, he argues that the “nature of the offense and his character do not support” the imposition of a four-year executed sentence and that the offense of theft “is not one of the worst offenses a person can commit.” Appellant’s Brief at 7. We are not persuaded.

We review a trial court’s sentencing decision in probation revocation proceedings for an abuse of discretion. Sanders v. State, 825 N.E.2d 952, 956 (Ind. Ct. App. 2005), trans. denied. “When reviewing a trial court’s decision to order a defendant’s previously suspended sentence to be executed after revoking probation, we will not review the propriety of an original sentence.” Johnson v. State, 692 N.E.2d 485, 488 (Ind. Ct. App. 1998). However, a defendant “is entitled to dispute on appeal the terms of a sentence ordered to be served in a probation revocation proceeding that differ from those terms originally imposed.” Stephens v. State, 818 N.E.2d 936, 939 (Ind. 2004).

Here, the trial court found that “the worst thing you can do on probation is to commit another crime” Transcript at 35. And the court noted that the offense Carper committed was a felony. As a result, the court ordered Carper to serve four years of his previously suspended ten-year sentence. Carper’s mere contentions that the nature of the offense and his character do not support the sentence, without more, are insufficient to show that the court abused its discretion.

Affirmed.

BAKER, C.J., and MATHIAS, J., concur.