



Tyree Thomas violated his probation, and he appeals the trial court's order he serve the remainder of his sentence incarcerated. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On April 4, 2008, after entering a plea agreement, Thomas was convicted of Class A felony dealing in cocaine<sup>1</sup> and sentenced to twenty years, with five years executed and fifteen years suspended. Thomas later filed a motion for alternative placement, which was granted, and the court ordered Thomas to serve the remainder of his executed time at the Marion County Community Corrections Program Work Release Center. He arrived at work release on August 14, 2009.

On December 4, 2009, while Thomas was in work release, the Marion County Probation Department filed a notice of probation violation because Thomas allegedly lied about his attempts to find a job. On reviewing his job pass,<sup>2</sup> a supervisor at the work release center noticed Thomas had not obtained the signatures of a company representative for the businesses he allegedly visited during his job search. Thomas had also falsified some of the names that were recorded. Both were violations of the work release center rules. After a hearing on January 14, 2010, the trial court revoked the suspension of part of Thomas' sentence, and ordered him to serve the remaining fifteen years of his sentence incarcerated.

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<sup>1</sup> Ind. Code § 35-48-4-1.

<sup>2</sup> A "job pass" is a form an inmate completes before leaving the work release center in search of a job. (Tr. at 7.) The job pass must be returned with the signatures of representatives from each business the inmate visited or with other indicia that a job application was completed.

## DISCUSSION AND DECISION

Probation is a matter of grace that may be granted at the trial court's discretion and to which a criminal defendant has no right. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). Trial courts determine the conditions of probation and may revoke probation if those conditions are violated. *Id.* Trial judges "have considerable leeway in deciding how to proceed" so they will not be hesitant to offer probation to future defendants. *Id.* We review the court's decision for an abuse of discretion and may reverse only "where the decision is clearly against the logic and effect of the facts and circumstances" that were before the trial court. *Id.* Upon a finding of violation of probation,

the court may impose one (1) or more of the following sanctions:

- (1) Continue the person on probation, with or without modifying or enlarging conditions.
- (2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.
- (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.

Thomas does not deny he violated his probation, nor does he argue his probation should not be revoked. He instead asserts the order he serve the fifteen years incarcerated is "not supported by substantial evidence of probative value," (Appellant's Br. at 10), and the court did not consider the fact that Thomas suffers from post traumatic stress disorder ("PTSD") as a mitigator in determining the length of the time he was required to serve following the revocation.

The probation department completed a pre-sentencing investigation (“PSI”) report that acknowledged Thomas’s statement that “as a result of his military experience he suffers from post traumatic stress disorder.” (PSI at 8.) However, the report noted he “has never received a mental health evaluation or treatment of any kind and does not believe he is in need of any.” *Id.* While the court might have had notice of Thomas’ self-diagnosis of PTSD, Thomas never presented evidence concerning such during his probation revocation hearing.

The trial court is required to consider the probationer’s mental state during a probation revocation proceeding, *Patterson v. State*, 659 N.E.2d 220, 223 (Ind. Ct. App. 1995), but we give it great deference in determining the weight to be given such evidence. *Id.* Thomas asserts those with PTSD “often have trouble following rules, obeying the law, and complying with social norms,” (Appellant’s Br. at 13), but he does not cite authority to support such assertion, nor does he explain how his undiagnosed PTSD relates to his commission of cocaine possession or his inability to follow the terms of his work release.<sup>3</sup> He indicates he “probably would not have started using illegal drugs or violated the community corrections rules if he did not suffer from combat-related PTSD.” (*Id.*)

Thomas testified he understood he “would get [his] time” if he violated probation. (Tr. at 65.) Thomas admitted violating his probation and did not present any evidence regarding the mitigator he now asserts. The trial court did not abuse its discretion when it

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<sup>3</sup> Thus his argument falls short of that required by our Appellate Rules. *See* App. Rule 46(A)(8)(a) (“The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied upon”).

ordered him to serve the balance of his sentence incarcerated.

Affirmed.

ROBB, J., and VAIDIK, J., concur.