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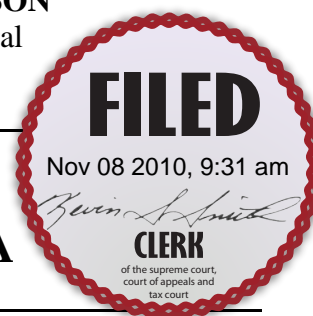
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**IN THE
COURT OF APPEALS OF INDIANA**



PAUL DODSON,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 48A05-1002-CR-00123

APPEAL FROM THE MADISON CIRCUIT COURT
The Honorable Rudolph R. Pyle III, Judge
Cause No. 48C01-9802-CF-00044

November 8, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Paul Dodson appeals the revocation of his work release. Specifically, he contends that the trial court abused its discretion when it sentenced him to eight years of his previously suspended twelve-year sentence to be executed at the Indiana Department of Correction. Finding no abuse of discretion, we affirm.

Facts and Procedural History

In May 2001, Dodson pled guilty to burglary as a Class B felony and theft as a Class D felony. The trial court sentenced Dodson to an aggregate term of twelve years, all suspended to probation.

Between the dates of July 25, 2005, and July 13, 2009, Dodson's probation officer filed four separate petitions in Madison Circuit Court alleging that Dodson violated the terms of his probation. The petitions alleged violations as follows: (1) an arrest for operating a vehicle while intoxicated, failure to report to probation, and failure to report a change of address, (2) failure to report to probation and an arrest for contempt of court and driving with a suspended license, (3) convictions for criminal conversion as a Class A misdemeanor, driving with a suspended license as a Class A misdemeanor, and resisting law enforcement as a Class A misdemeanor, failure to pay court costs, fees, and restitution, and failure to report to probation, and (4) failure to report as directed and failure to pay probation fees. Appellant's App. p. 70-71, 78-79, 88, 99. An evidentiary hearing was held for each of the four petitions. In each instance, the court found that Dodson violated his probation, and Dodson was sanctioned. *Id.* at 6-7. At the fourth hearing on September 21, 2009, Dodson was sanctioned to "twelve months Community

Corrections—Work Release” with an order that he return to probation upon completion of the work release. *Id.* at 7.

Dodson began his work release at Community Justice Work Release Center (“CJC”) on September 22, 2009. Within three months CJC filed a petition to terminate Dodson’s work release privileges due to violations of the work release rules and regulations. CJC’s petition filed on December 22, 2009, contained three allegations: (1) Dodson received a conduct report for unaccountable time on October 22, 2009, (2) Dodson tested positive for opiates (hydrocodone level of 300) in a urine drug screen on October 29, 2009, and (3) Dodson received a second conduct report for unaccountable time on November 29, 2009. *Id.* at 59.

An evidentiary hearing was scheduled for January 25, 2010. At the evidentiary hearing, Dodson admitted to committing all three of the work release violations listed in CJC’s petition. Tr. p. 10-11. The trial court revoked Dodson’s work release and sentenced him to eight years of his previously suspended twelve-year sentence to be executed at the Indiana Department of Correction with no return to probation.¹ Dodson now appeals.

Discussion and Decision

Dodson alleges that the trial court abused its discretion when it revoked his work release and sentenced him to eight years of his previously suspended twelve-year

¹ A Probation Revocation Discovery and Notice of Violation of Suspended/Executed Sentence were also filed on January 25, 2010. Appellant’s App. p. 20, 53, 54. Based on the transcript and the trial court’s order, it does not appear that these motions were considered during the evidentiary hearing. We will not address these motions on appeal as the trial court has already ordered that the bulk of Dodson’s suspended sentence be executed at the Department of Correction. Moreover, neither party has raised this issue on appeal.

sentence to be executed at the Indiana Department of Correction. Specifically, Dodson argues that the sanction of eight years is unreasonable given the nature of the violations and his character. Dodson asks us to vacate the trial court's sanction and remand for a new sanctions hearing.

For purposes of appellate review, we treat a hearing on a petition to revoke a placement in a community corrections program the same as we do a hearing on a petition to revoke probation. *Holmes v. State*, 923 N.E.2d 479, 482 (Ind. Ct. App. 2010) (citing *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999)). We will consider all the evidence most favorable to the judgment of the trial court without reweighing the evidence or judging the credibility of witnesses. *Id.* at 483. If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of the community corrections placement, we will affirm its decision to revoke placement. *McQueen v. State*, 862 N.E.2d 1237, 1242 (Ind. Ct. App. 2007) (citing *Cox*, 706 N.E.2d at 551).

A work release program is included in the statutory definition of "community corrections program." *See* Ind. Code § 35-38-2.6-2. If a person violates the terms of a community corrections placement, the court may, after a hearing, "[r]evoke the placement and commit the person to the Department of Correction for the remainder of the person's sentence." Ind. Code § 35-38-2.6-5.

In this case, a hearing was held, and Dodson admitted to violating the terms of his work release. Dodson was also given the opportunity to present mitigating evidence. Dodson testified that he was working and was current on his fees while in the work

release program. Tr. p. 12. Dodson also testified that he had been evaluated for substance abuse and attended various substance abuse classes including Almond Tree, Alcoholics Anonymous, Narcotics Anonymous, and twelve-step counseling. *Id.* at 13. When asked by the judge if he was addicted to pain pills, Dodson stated, “I don’t believe I have a problem, no.” *Id.* Dodson then testified that he had mistaken the hydrocodone for Tylenol or Ibuprofen. *Id.*

Further testimony from CJC employee Katie Stapleton showed that Dodson did not complete his substance abuse treatment:

Q. So basically what he did was he blew off the treatment?

A. His . . . based on he was dirty, Mr. Dodson and I had a discussion. He was a little hostile, kind of angry, denied using. He did get a substance abuse evaluation. Was reluctant. I think we’ve had some stutter steps this whole process about his reluctance to get treatment. The second dirty urine screen he was sent to mental health and did not complete treatment there. So I don’t know what he’s capable of if he puts himself in the mind set that he’s ready to get treatment.

Id. at 18 (omission in original). The prosecutor argued that full revocation was warranted in light of Dodson’s repeated probation violations and illicit drug use. Defense counsel asked that he be given another opportunity to enter the substance abuse program and “to take it serious.” *Id.* at 19.

The record shows that the trial court considered Dodson’s mitigating evidence and weighed it along with Dodson’s history of violating the terms of his probation and Dodson’s testimony that he did not believe he had a substance abuse problem. Before issuing the sanction, the judge stated:

You know, I was willing to give you a stayed sentence and put you in the Drug Court Program, but I can tell from your answers right now, they

would be kicking you out of that program because it takes somebody who acknowledges that they have a substance abuse problem to even begin to be successful in Drug Court. . . . [Y]ou're not taking things seriously. You have this huge sentence over your head. If I had twelve years over my head, I'd be doing everything to make sure that I didn't go back to the Department of Correction, but you're not.

Id. at 20. The judge then revoked Dodson's work release and sentenced him to eight years in the Department of Correction. *Id.* at 21.

In light of the statutory authority, Dodson's admitted violations, and the record on appeal, the trial court did not abuse its discretion in revoking Dodson's work release and sentencing him to eight years of his previously suspended twelve-year sentence to be executed at the Department of Correction. Accordingly, we affirm.

Affirmed.

MAY, J., and ROBB, J., concur.