

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE D. WALLEY,	§
	§
Defendant Below-	§ No. 200, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN00-12-0999
Plaintiff Below-	§ Cr. ID 0011018708
Appellee.	§

Submitted: March 5, 2004
Decided: May 4, 2004

Before **HOLLAND**, **BERGER**, and **JACOBS**, Justices.

ORDER

This fourth day of May 2004, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, Tyrone Walley, filed this appeal from the Superior Court's sentence for his second violation of probation. The sole issue Walley raises on appeal is that the Superior Court's finding of a probation violation was not supported by competent evidence. We find no merit to this contention. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Walley pled guilty in March 2001 to felony theft. The Superior Court sentenced him to two years imprisonment, suspended entirely for two years of decreasing levels of probation. In June 2001, Walley was

found guilty of violating probation. A second violation report was filed in January 2002. Walley was not located, however, until March 2003. On March 11, 2003, Walley's probation officer filed an administrative warrant. The Superior Court scheduled a contested VOP hearing on March 26, 2003. Walley was represented by counsel at the hearing.

(3) Walley's probation officer testified at the hearing. He testified that the violation charges stemmed from Walley's failure to report to the Delaware probation office for an extended period of time, his failure to report his change of address, his failure to report new criminal charges, and his failure to maintain full-time employment. Walley also testified at the hearing. He did not deny failing to report to Delaware probation authorities, nor did he deny difficulties maintaining full-time employment. He asserted, however, that his Delaware probation had been transferred to New Jersey authorities and, therefore, he was not required to report to Delaware authorities. Furthermore, Walley maintained that his subsequent criminal charges all had been dismissed by New Jersey authorities. Walley's probation officer, on the other hand, contended that Walley's Delaware probation had never been transferred to New Jersey and, in fact, Walley's New Jersey probation had been transferred to Delaware authorities.

(4) At the conclusion of the hearing, the Superior Court found competent evidence that Walley had violated his probation and sentenced him to one year

imprisonment. Following completion of the prison term, the Superior Court ordered that Walley be discharged from probation as unimproved.

(5) After careful consideration of the parties' respective positions on appeal and the record below, we find it manifest that the judgment of the Superior Court must be affirmed. Walley's claim that his probation supervision was transferred to New Jersey is unsubstantiated and clearly was contradicted by Walley's probation officer at the hearing. Under the circumstances, we find sufficient, competent evidence, including Walley's own testimony, to support the Superior Court's conclusion that Walley had violated the terms of his probation.* Accordingly, we find no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

* *Brown v. State*, 249 A.2d 269, 272 (Del. 1968).