

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-1283

DWAYNE FRAZIER WHITE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Holmes County.
Timothy Register, Judge.

August 17, 2022

MAKAR, J.

Dwayne Frazier White appeals the revocation of his community control, which arose from his absence from his residence on Thanksgiving morning to visit his parents who lived next door. He had been placed on two years' community control for selling a controlled substance within 1,000 feet of a nursing home and illegally using a two-way communication device; he was a law enforcement officer at the time and made the sale out of his patrol car.

At the time of his visit with his parents, White had served fifteen months of two years of community control without any violations; he maintained a job, a residence, and a time log without incident. The problem is that White was required to get prior

approval to leave his residence and, importantly, for only specific authorized activities, such as going to work or the doctor. The house arrest officer, who discovered that White was not home on Thanksgiving morning, testified that White could not under any circumstances leave his residence and visit his parents' home, even though it was next door and even though it was Thanksgiving. *See, e.g., State v. Meeks*, 789 So. 2d 982, 986 (Fla. 2001) (“[R]emaining in one’s residence during the specified times is indeed a vital component of a community control program.”). White was entitled to have his parents come to his home for a holiday meal or gathering, but not vice versa.

White argues that the trial court erred because White acted negligently rather than intentionally in visiting his parents' home. He points to “undisputed evidence that [he] answered [the house arrest officer’s] call and immediately ran back to his house” thereby “show[ing] his lack of intent to violate his community control.” Running back home after receiving the call, however, can easily be seen as supporting the opposite conclusion: that White knew he was in violation of community control and hightailed it back home when he was called out.

White was sentenced to two years of incarceration for his violation of community control requirements, i.e., visiting his parents next door on Thanksgiving Day. This could be seen as harsh punishment, particularly when White had a spotless record to that point, fifteen months into his two years of community control. The counterpoint is that White committed a serious drug offense while he was a law enforcement officer and in a patrol car (near a nursing home) and was given leniency with community control. Trial judges have broad discretion in these matters, *Williamson v. State*, 43 So. 3d 843, 845 (Fla. 1st DCA 2010) (“The trial court is vested with broad discretion to determine whether a probationer has violated a condition of probation.”); no abuse of discretion has been shown.

AFFIRMED.

ROBERTS, J., concurs; TANENBAUM, J., concurs in result only.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and A. Victoria Wiggins, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Trisha Meggs Pate, Bureau Chief, Tallahassee, for Appellee.