

STATEMENT OF THE CASE

Pursuant to a plea agreement, Robert Lovett pleaded guilty to Battery, as a Class D felony, and the trial court sentenced Lovett to 545 days, with ten days executed and 535 days suspended to probation. As a term of probation, the trial court prohibited Lovett from having contact with the victim of and witnesses to his crime. And the court ordered Lovett to pay a supplemental public defender fee. Lovett appeals and presents the following restated issues for our review:

1. Whether the trial court abused its discretion in ordering as a term of probation that Lovett have no contact with his victim of and the witnesses to his crime.
2. Whether the trial court erred when it ordered him to pay a supplemental public defender fee without first determining his ability to pay.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 10, 2009, Lovett was visiting the mother of his children, Tatiana Rustin, when a verbal argument ensued. Lovett's three minor children and two adults, Susanne Bancroft-Billings and Silvia Oatts, were present. The argument escalated, and Lovett attempted to choke Rustin. After Oatts told Lovett that she had called the police, Lovett fled the scene.

Lovett pleaded guilty to battery, as a Class D felony, and the trial court sentenced Lovett to 545 days with 535 days suspended to probation. As a condition of probation, the trial court ordered that Lovett shall not have contact with Rustin, Bancroft-Billings,

Oatts, or his three minor children. And the trial court ordered Lovett to pay a supplemental public defender fee in the amount of \$50.00. This appeal ensued.

DISCUSSION AND DECISION

Issue One: No Contact Order

Lovett first contends that the trial court abused its discretion when it ordered that Lovett have no contact with Rustin, Bancroft-Billings, Oatts, or his three minor children. A trial court has broad discretion in imposing conditions of probation in order to create law-abiding citizens and to protect the community, with the only limitation being that the conditions have a reasonable relationship to the treatment of the accused and the protection of the public. See Hale v. State, 888 N.E.2d 314, 319 (Ind. Ct. App. 2008) (citations omitted), trans. denied. Thus, our review is essentially limited to a determination whether the conditions placed upon the defendant are reasonably related to attaining these goals. See id.

Lovett acknowledges that Indiana Code Section 35-38-2-2.3(a)(17) authorizes the trial court to impose as a condition of probation that he refrain from any direct or indirect contact with an individual. Still, Lovett maintains that because the State did not present any evidence to show that no contact orders were appropriate, the trial court abused its discretion by imposing this condition of probation. But Lovett does not support that contention with citations to relevant authority. While Lovett is correct that the victim and witnesses could have sought no contact orders themselves, the availability of other options is not dispositive of this issue on appeal. To the extent that Lovett asks that we

require the trial court to follow the Indiana Civil Protection Order Act, see Ind. Code § 34-26-5-9, in imposing conditions of probation, we decline his invitation.

Lovett also maintains that the condition of probation improperly interferes with his constitutional rights as a father. In essence, Lovett argues that the no contact order constitutes a temporary termination of his parental rights and that certain due process protections are implicated. But, again, Lovett asks that we impose certain evidentiary requirements that simply do not exist under Indiana Code Section 35-38-2-2.3(a)(17).¹

As the State points out, Lovett admitted to battering the mother of his children in the presence of his three minor children and two adult witnesses. Indeed, Lovett admitted to attempting to strangle Rustin, without regard to the impact that witnessing that violent act would have on his minor children. Lovett has not demonstrated that the trial court's order prohibiting contact with the victim and each of the witnesses is not reasonably related to Lovett's treatment and the protection of the public. See Hale, 888 N.E.2d at 319. The trial court did not abuse its discretion in imposing the no contact orders as a condition of Lovett's probation. See, e.g., Hines v. State, 856 N.E.2d 1275, 1284 (Ind. Ct. App. 2006) (holding trial court had discretion to prohibit defendant from residing within one mile of the victim given the statutory authority to prohibit direct or indirect contact with an individual), trans. denied.

¹ We note that Lovett has not provided this court with a copy of a visitation order from a dissolution court or a paternity court. Lovett makes no contention that the trial court lacked subject matter jurisdiction over visitation. Therefore, we do not address that issue.

Issue Two: Supplemental Public Defender Fee

Lovett next contends that the trial court erred when it ordered him to pay a \$50 supplemental public defender fee without first inquiring regarding his ability to pay.² Lovett maintains that “the trial court must conduct a hearing and make a finding as to the defendant’s ability to pay before imposing public defense costs.” Brief of Appellant at 22. But the State directs us to the trial court’s Order for Payment to Supplemental Public Defender Fund, which states that the court ordered the \$50 fee only after “having inquired of the Defendant’s ability to pay cost of representation[.]” Appellant’s App. at 24. Lovett did not file a Reply Brief or otherwise refute that evidence that the trial court properly inquired into his ability to pay, and he has not demonstrated any error on this issue.

Affirmed.

VAIDIK, J., and BROWN, J., concur.

² The trial court imposed additional costs and fees, but Lovett appeals only the imposition of the \$50 supplemental public defender fee.