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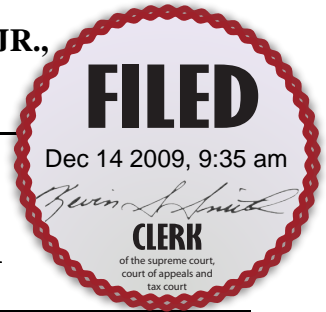
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**IN THE
COURT OF APPEALS OF INDIANA**



JEFFERY A. JOOS,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 15A01-0909-CR-473

APPEAL FROM THE DEARBORN SUPERIOR COURT
The Honorable Sally A. Blankenship, Judge
Cause No. 15D02-0607-FD-154

December 14, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Jeffery A. Joos appeals the trial court's decision to revoke the balance of his 805-day suspended sentence. Joos argues that the trial court abused its discretion by imposing the maximum punishment after he admitted to four probation violations less than two months after he began serving his suspended sentence. Finding no error, we affirm.

FACTS

On June 11, 2007, Joos pleaded guilty to class A misdemeanor domestic battery and class D felony battery on a police officer with injury. Pursuant to the plea agreement, the trial court sentenced Joos to 365 days, all suspended, for the domestic battery conviction, and to 1,095 days for the battery on a police officer conviction, with 805 days suspended to probation, to be served concurrently.

On July 27, 2007, the State filed a petition alleging that Joos had violated the terms of his probation. A warrant was issued for his arrest but was not served until February 4, 2009.¹ The trial court held a factfinding hearing on the petition on April 14, 2009, at which time Joos admitted that he had committed four probation violations: (1) he had failed to attend an appointment with the probation department on July 10, 2007; (2) he had failed to attend a review hearing scheduled for July 25, 2007; (3) he had failed to notify the probation department of a change of his address; and (4) he had failed to attend an assessment at the Community Mental Health Center on July 18, 2007. The trial

¹ This delay is likely explained by the fact that after Joos began serving his probation, he was convicted of criminal confinement and assault in a separate proceeding.

court focused on Joos's criminal history, which includes fifteen prior convictions, six active warrants, and two prior probation violations, and ordered that the balance of the 805-day suspended sentence be revoked. Joos now appeals.

DISCUSSION AND DECISION

In considering Joos's argument that the trial court should not have revoked all of the suspended sentence, we observe that probation is a matter of grace left to the discretion of the trial court rather than a right to which a criminal defendant is entitled. Prewitt v. State, 878 N.E.2d 184, 188 (Ind. 2007). The trial court decides the conditions of probation and may revoke probation if the conditions are violated. Ind. Code § 35-38-2-3(g) (providing that if the trial court finds that a defendant violated a condition of probation, it may “[o]rder execution of all or part of the sentence that was suspended at the time of initial sentencing”). We review a trial court's sentencing decision on a probation violation for an abuse of discretion. Prewitt, 878 N.E.2d at 188. Our Supreme Court has explained that the trial court must be given “considerable leeway” in making this decision:

Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed. If this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants.

Id.

Here, the trial court heard evidence about Joos's lengthy criminal history. Additionally, evidence was presented that after the notice of probation violation was filed herein, Joos was convicted of criminal confinement and assault on the same victim as in Joos's underlying domestic battery charges herein. Joos suggests that the trial court should have taken into consideration that he missed his scheduled probation obligations because he was caring for his minor children, one of whom died suddenly. While Joos evidently faced a tragic situation, the trial court acted well within its discretion in concluding that his criminal actions, past and present, indicate that Joos is a danger to society in general and this victim in particular. In less than two months after Joos began serving probation, he had committed at least four violations. Under these circumstances, we do not find that the trial court abused its discretion in sentencing Joos.

The judgment of the trial court is affirmed.

BAILEY, J., and ROBB, J., concur.