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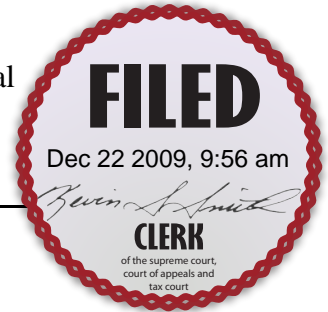
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**IN THE
COURT OF APPEALS OF INDIANA**

D.H.,)
)
Appellant-Respondent,)
)
vs.) No. 49A02-0905-JV-408
)
STATE OF INDIANA,)
)
Appellee-Petitioner.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
Cause No. 49D09-0803-JD-867

December 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

D.H. appeals from the juvenile court's revocation of his probation. D.H. raises a single issue for our review, which we restate as whether the court's order is supported by sufficient evidence.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 25, 2008, the State filed a delinquency petition alleging D.H. had possessed cocaine, which would have been a Class D felony if committed by an adult. On April 14, D.H. entered into a plea agreement with the State, wherein he admitted the allegation as true. The juvenile court accepted the agreement the same day and ordered D.H. to be "placed on probation with special conditions: continue to be made a ward of [the Department of Correction] for purpose and placement at Resource [Treatment Center]; participate in and follow treatment recommendations at Resource." Appellant's App. at 10. At some point thereafter, the court ordered D.H.'s "placement/treatment" to continue at the Kokomo Academy. *Id.* at 56.

On January 7, 2009, the State filed a notice entitled "Information of a Delinquent Child Technical Violation of Probation." *Id.* (capitalization removed). That information alleged that D.H. had violated the conditions of his probation in four ways: (1) on several occasions, D.H. had "assaulted one or more of his . . . peers at Kokomo Academy"; (2) on two or three other occasions, D.H. had "touched or grabbed other youth in the groin area at Kokomo Academy"; (3) D.H. had "wrapped a shoestring around a peer's neck"; and (4) on numerous other occasions D.H. had "physically attacked a staff member at

Kokomo Academy.” Id. On January 30, the State added a fifth allegation. That allegation read as follows:

[D.H.,] on or about [the] 30th day of January, 2009[,] violated the conditions of his probation:

Formal Probation in that:

Youth failed to fully complete his Court Ordered placement at Kokomo Academy . . . due to the following count:

1. On 1-30-09, at approximately 1:46 [p.m.], while being escorted to the court building . . . by Kokomo Staff, [D.H.] pulled away from the staff and ran headed north past 25th street [in Indianapolis]. As of 1-30-09, at approximately 2:54 [p.m.], [D.H.’s] whereabouts remain unknown to both his DCS worker and the Court.

Id. at 58. The State then requested the court to modify its dispositional decree and schedule a hearing to review D.H.’s detention order.

On March 23, 2009, the court held a modification hearing. At the commencement of that hearing, D.H.’s counsel engaged the court in a lengthy discussion regarding appropriate placement options for D.H. Immediately following that discussion, the following colloquy occurred:

THE COURT: [D.H.,] how many times have you run out of court[?] How many times have you come to court and run the same day?

[D.H.]: Twice sir.

THE COURT: Pardon me?

[D.H.]: Twice.

* * *

[D.H.’S COUNSEL]: Now Judge I can’t explain why a child would run but I will point out one thing. It has been an issue and a frustration [D.H.] has one family member in this community that he has wanted to

maintain contact with and that is his older brother I can assume that when he leaves here he is going to [be] with his brother Probation would not allow [visitation with his brother] because their view is that the brother is on probation himself and that it would not be appropriate for him to have contact with somebody with a criminal history. Yet, at the same time[,] this is the only family member that [D.H.] has and I think we could all recognize the importance of family ties and family connections[,] especially when you have not had your parents involved in your life I can't say that it could make the running behavior stop, we could only all speculate as to that[,] but if there is a way towards incorporating the one family member that [D.H.] has in his life, I think that it could make a positive difference. . . .

THE COURT: . . . I am going to adopt the recommendations of probation sir. Pursuant to modification show you committed to the Department of Correction[] for placement at Boy's School. . . .

Transcript at 55-57. This appeal ensued.

DISCUSSION AND DECISION

On appeal, D.H. argues that the trial court erred when it revoked his probation and ordered him detained in a correctional facility for children under the wardship of the Department of Correction. Specifically, D.H. suggests that, because the State itself did not present any evidence during the modification hearing, the court's modification of his probation denied him his due process rights. We cannot agree.

As an initial matter, the parties dispute whether this appeal is analogous to the challenge of the sufficiency of the State's evidence in an appeal from the revocation of an adult's probation. D.H. states that, "[a]t its core[,] this is a sufficiency case." Appellant's Brief at 3. As such, D.H. continues, he is entitled to all the due process rights of an adult in that setting. See, e.g., Terrell v. State, 886 N.E.2d 98, 100 (Ind. Ct. App. 2008) ("once the State grants [the] favor [of probation], it cannot simply revoke the privilege at its discretion."), trans. denied. The State responds that a juvenile's case is not equivalent to

an adult's. Instead, according to the State, "the juvenile court maintains jurisdiction over a delinquent" and, therefore, "retains the authority to modify its dispositional decree on its own motion or at the request of any interested party." Appellee's Brief at 6 (citing Ind. Code §§ 31-30-2-1, 31-37-22-1).

We need not resolve the parties' dispute over the scope of a juvenile's due process rights in the probation revocation setting or the juvenile court's inherent authority to modify the terms of a juvenile's probation. In the past, this court has reviewed the revocation of a juvenile's probation under the same standard of review used for the revocation of an adult's probation. See, e.g., J.J.C. v. State, 792 N.E.2d 85, 88 (Ind. Ct. App. 2003). Assuming for the sake of argument that D.H. is correct and that he is entitled to all the rights of an adult during a probation revocation hearing, D.H. cannot succeed on the merits of his appeal.

As we stated in J.J.C.:

Because a probation revocation proceeding is in the nature of a civil proceeding, the alleged violation need be proved only by a preponderance of the evidence. Violation of a single condition of probation is sufficient to revoke probation. As with other sufficiency issues, we do not reweigh the evidence or judge the credibility of witnesses. We look only to the evidence which supports the judgment and any reasonable inferences flowing therefrom. If there is substantial evidence of probative value to support the trial court's decision that the probationer committed any violation, revocation of probation is appropriate.

Id. (citations omitted). Of course, "[w]hen a probationer admits to the violations, the procedural due process safeguards and an evidentiary hearing are not necessary." Terrell, 886 N.E.2d at 101 (quotations and emphasis removed).

Here, the State alleged, among other things, that D.H. violated the terms of his probation when he failed to fully complete his court-ordered placement at the Kokomo Academy because he had fled from the staff of the Kokomo Academy on January 30, 2009. See Appellant’s App. at 58. At the modification hearing, the court directly asked D.H. about that allegation. D.H. responded that he had twice “run out of court” on the day of a hearing. Transcript at 55. And D.H.’s counsel acknowledged that D.H. had fled from Kokomo Academy staff to see his brother. Id. at 55-56.

There is no dispute that fleeing from the staff of the Kokomo Academy or the court was a violation of the conditions of D.H.’s probation, and D.H. does not challenge the legality of his admissions on appeal. Further, once D.H. admitted to a probation violation, the State no longer carried the burden of demonstrating a violation. See Terrell, 886 N.E.2d at 101. Accordingly, considering “all the evidence most favorable to supporting the judgment,” the juvenile court properly concluded that D.H. violated at least one condition of his probation. See J.J.C., 792 N.E.2d at 88. The court’s revocation of his probation, therefore, is affirmed.

Affirmed.

FRIEDLANDER, J., and BRADFORD, J., concur.