



Jeff Arthur appeals the revocation of his probation. Arthur raises one issue, which we restate as whether the trial court abused its discretion by imposing five years of his suspended sentence due to his probation violations. We affirm.

The relevant facts follow. On April 11, 2003, the State charged Arthur with burglary as a class B felony and theft as a class D felony. Arthur pleaded guilty to burglary as a class B felony, and on May 10, 2004, the trial court sentenced him to ten years in the Indiana Department of Correction with nine years and sixty-nine days suspended to probation.

Arthur was accused of engaging in masturbation in public in Ohio on November 13, 2004, November 16, 2004, December 6, 2004, and December 10, 2004. On June 24, 2005, Arthur pleaded guilty to public indecency and the remaining charges were dismissed. On August 18, 2005, Arthur was alleged to have masturbated in public and made rude comments to a female. Arthur pleaded guilty to public indecency on October 20, 2005. On September 27, 2005, Arthur was alleged to have made rude sexual comments to a female, and on February 1, 2006, Arthur pleaded guilty to disorderly conduct.

On March 6, 2006, the State filed a request for a probation violation hearing based upon Arthur's new convictions. At a probation violation hearing, Arthur admitted that he had been convicted of the new crimes. At a later sentencing hearing, Arthur admitted to committing the new offenses. The trial court stated:

[Q]uite frankly, Mr. Arthur, what I should do today, is to order that nine years and sixty-nine days be revoked. That's what I should do, given

your history, and given what's happened here. I am going to take into consideration the fact that you're twenty-one years of age. I'm revoking five years of the sentence, and quite frankly I believe that is being generous given your history and what has occurred.

Transcript at 62. Thus, the trial court revoked five years of Arthur's suspended sentence.

On appeal, Arthur argues that the trial court abused its discretion by imposing five years of his suspended sentence due to his probation violations. We review a trial court's sentencing decision in probation revocation proceedings for an abuse of discretion. Goonen v. State, 705 N.E.2d 209, 212 (Ind. Ct. App. 1999). An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. Smith v. State, 730 N.E.2d 705, 708 (Ind. 2000), reh'g denied.

Probation is a criminal sanction wherein a convicted defendant specifically agrees to accept conditions upon his behavior in lieu of imprisonment. Brabandt v. State, 797 N.E.2d 855, 860 (Ind. Ct. App. 2003). These restrictions are designed to ensure that the probation serves as a period of genuine rehabilitation and that the public is not harmed by a probationer living within the community. Id. A defendant is not entitled to serve a sentence in a probation program; rather, such placement is a "matter of grace" and a "conditional liberty that is a favor, not a right." Strowmatt v. State, 779 N.E.2d 971, 976 (Ind. Ct. App. 2002). Ind. Code § 35-38-2-3(g) governs the revocation of probation and provides:

If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

(1) continue the person on probation, with or without modifying or enlarging the conditions;

- (2) extend the person's probationary period for not more than one (1) year beyond the original probationary period; or
- (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Arthur does not dispute that the trial court was within its statutory authority to order that he serve five years of his suspended sentence. Rather, Arthur argues that the imposition of five years of the suspended sentence was excessive. According to Arthur, the trial court did not give sufficient consideration to his employer's testimony that Arthur was a good employee, his fiancée's testimony that she was due to give birth soon, and the fact that Arthur admitted to violating his probation.

In determining Arthur's sentence for his probation violation, the trial court emphasized Arthur's prior history and his new offenses. Arthur had a juvenile criminal history that consisted of two adjudications for burglary, three probation violations, and two adjudications for disorderly conduct. As an adult, he had the instant burglary conviction for which he was sentenced to ten years with nine years and sixty-nine days suspended to probation. Despite the fact that he was on probation, Arthur pleaded guilty to repeatedly masturbating and exposing himself in public and making rude sexual comments to female strangers walking past. Given this history, we cannot say that the trial court abused its discretion by imposing only five years of Arthur's suspended sentence. See, e.g., Jones v. State, 838 N.E.2d 1146, 1149 (Ind. Ct. App. 2005) (holding that the trial court did not abuse its discretion by imposing thirty years of a forty-two-year suspended sentence as a result of probation violations).

For the foregoing reasons, we affirm the revocation of Arthur's probation.

Affirmed.

KIRSCH, C. J. and MATHIAS, J. concur