

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

William Connor,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 17, 2022

Court of Appeals Case No.
21A-CR-2075

Appeal from the Bartholomew
Superior Court

The Honorable James D. Worton,
Judge

Trial Court Cause No.
03D01-1502-FB-1033

Darden, Senior Judge.

Statement of the Case

[1] William Connor appeals the sanction the trial court imposed after he admitted to committing multiple violations of the terms and conditions of his probation. We affirm.

Issue

- [2] Connor raises one issue, which we restate as: whether the trial court abused its discretion by ordering him to serve his previously-suspended sentence of four years.

Facts and Procedural History

- [3] On February 27, 2015, the State charged Connor with two counts of criminal deviate conduct, both Class B felonies, for alleged acts involving his younger sister, a minor. Connor and the State negotiated a plea agreement, as follows: Connor agreed to plead guilty to one count, and the State agreed to dismiss the other count, plus another pending case against him. The sentence would be left to the trial court's discretion.
- [4] The trial court accepted the parties' plea agreement and, after being advised of his rights, Connor's plea of guilty. On October 20, 2015, the trial court held a sentencing hearing. The trial court determined that eighteen-year-old Connor's history of mental illness (diagnoses of reactive attachment disorder and bipolar disorder) was a mitigating sentencing circumstance, but his history of juvenile delinquency (one prior case involving theft and running away from home) and the harm to the victim were aggravating sentencing circumstances.
- [5] The trial court imposed a sentence of fourteen years, with four years suspended to probation. Without objection, the trial court imposed the terms and conditions of Connor's probation, which included, in relevant part: (1) complying with mental health treatment; (2) being placed within community corrections and complying

with the rules of the facility and program; (3) refraining from use of alcohol or controlled substances; (4) reporting to his probation officer as directed; (5) obeying all laws of the State of Indiana; (6) taking reasonable steps to obtain and retain employment; (7) paying all probation fees and court costs; and (8) complying with sex offender registration requirements and special terms of probation for sex offenders.

[6] Also on October 20, 2015, Connor was presented with a document entitled “Bartholomew County Circuit, Superior I and Superior II Courts Order of Probation.” Appellant’s App. Vol. 2, p. 90. The document contained terms and conditions of probation identical to those set forth in the trial court’s sentencing order. The document advised:

If you violate any one of the conditions of your probation, a Petition to Revoke Probation may be filed during the probationary period or after the probationary period but before the earlier of the following: one (1) year after the termination of probation or forty-five (45) days after the State receives notice of the violation, [sic] the Court may modify or enlarge the conditions of your probation or may revoke your probation and order execution of any suspended sentence.

Id. at 92. Immediately above Connor’s signature, the document further provided: “I have read the above (and attached) rules of probation. I agree to obey all these rules, and I acknowledge that I have received a copy of them.” *Id.*

[7] Connor appealed the trial court’s sentencing decision, arguing that his sentence was inappropriate in light of the nature of the offense and his character. Initially, on direct appeal, a panel of this Court affirmed the trial court’s judgment. *Connor*

v. State, 58 N.E.3d 215 (Ind. Ct. App. 2016). The Court determined Connor’s sentence was not inappropriate in light of the “heinous” nature of the offense. *Id.* at 219. The Court further noted that although Connor’s mental health challenges were indisputably severe, he had not engaged with the mental health services obtained by his parents, was resistant to taking prescribed medication, and chose to self-medicate with controlled substances.

- [8] Connor served the executed portion of his sentence, during which he earned a GED and completed an anger management course; but, he also accrued approximately eighteen conduct violations at the Department of Correction. He was released on or about March 9, 2020.
- [9] On July 6, 2021, the State filed a petition to revoke Connor’s probation. The State alleged that Connor had violated the terms and conditions of his probation by: (1) failing to notify his probation officer of a change of address; (2) failing to maintain employment and to notify the probation officer of changes in his employment status; (3) failing to notify his probation officer of an interaction with law enforcement on June 29, 2021; (4) violating the law by using methamphetamine; and (5) failing to pay his fine and probation fees. The State also asked the trial court to issue a warrant for Connor’s arrest, with no bond. Connor was subsequently arrested and jailed.
- [10] On August 25, 2021, the trial court held a fact finding and dispositional hearing. Connor admitted that he had violated the terms and conditions of his probation as set forth in the State’s petition to revoke. Subsequently, the trial court revoked

Connor's probation and ordered him to serve the balance of the previously-suspended four years remaining on his sentence, with credit for time served in the amount of three hundred and sixty days. The trial court further recommended to the Indiana Department of Correction that Connor be placed in a substance abuse treatment program while incarcerated. Finally, the trial court stated in its sanctions order that if Connor successfully completed the treatment program, it would consider modifying his sentence. This appeal followed.

Discussion and Decision

- [11] Connor argues that the trial court should not have ordered him to serve his previously-suspended sentence because he had initially made progress while on probation and work release until he experienced a mental health crisis, resulting in him quitting his job, losing his housing, and attempting to commit suicide by a drug overdose. He asks this Court to order the trial court to reinstate his term of probation.
- [12] Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled. *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007). The 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 limitations being that the conditions must have a reasonable relationship to the treatment of the accused and the protection of the public. *Hurst v. State*, 717 N.E.2d 883, 886 (Ind. Ct. App. 1999). If a trial court determines that a person has violated a term

or condition of probation within the probationary period, the court may impose one or more of the following sanctions:

- (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.
- (3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Ind. Code § 35-38-2-3(h) (2015).

[13] We review a trial court's selection of a sanction for an abuse of discretion. *Overstreet v. State*, 136 N.E.3d 260, 263 (Ind. Ct. App. 2019), *trans. denied*. An abuse of discretion occurs when the decision is clearly against the logic and effect of the facts and circumstances. *Id.* We consider only the evidence most favorable to the judgment without reweighing that evidence or reassessing the credibility of the witnesses. *Cain v. State*, 30 N.E.3d 728, 732 (Ind. Ct. App. 2015), *trans. denied*.

[14] Connor argues that he took responsibility for his actions by admitting to the five violations alleged by the State; however the evidence of his violations of probation was virtually indefensible. Further, he conceded that when he began to experience difficulties, he did not contact his probation officer. He was instead arrested pursuant to a warrant after he fell out of contact.

[15] Connor next argues that he had initially made progress on work release and, at the time of the dispositional hearing, he had undergone a change of heart and had begun to address his mental health challenges. His probation officer testified that

Connor had failed to complete his work release program because he simply left and did not return. The officer further expressed concern that Connor could make the same choice about any other program if he were allowed to continue on probation. For this reason, the officer stated that there were no other available programs to help Connor address his mental health issues while on probation, and the structured environment of the Department of Correction might better help Connor while protecting the community. In relation to the issue of community protection, the probation officer further explained that he had discovered that Connor had created a secret profile on a social media website, in violation of the terms of his sex offender probationary status.

[16] The trial court agreed with the probation officer that there were no local programs that would help with Connor’s treatment and rehabilitation needs, and that incarceration, with placement in a substance abuse program, “might be a better option where the defendant can start getting some treatment for his drug abuse.” Tr. Vol II, p. 19. The trial court was in the best position to weigh the evidence and assess witness credibility in determining the appropriate sanction for Connor’s extensive probation violations, taking into consideration Connor’s mental health issues and possible risk of harm to the community. Connor has failed to demonstrate that the trial court abused its discretion.

Conclusion

[17] For the reasons stated above, we affirm the judgment of the trial court.

[18] Affirmed.

Riley, J., and Robb, J., concur.