MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Darryl Lamond Martin,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 19, 2023

Court of Appeals Case No. 23A-CR-1124

Appeal from the Allen Superior Court

The Honorable Samuel R. Keirns, Magistrate

Trial Court Cause Nos. 02D04-1609-F4-62 02D04-2208-F5-300

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

[1] Darryl Martin appeals the trial court's revocation of his placement on community corrections. Martin raises one issue for our review, namely, whether the court abused its discretion when it revoked his placement. We affirm.

Facts and Procedural History

[2] On March 17, 2017, Martin pleaded guilty to unlawful possession of a firearm by a serious violent felon, as a Level 4 felony,[1] in Cause Number 02D04-1609-F4-64 ("F4-62). The court accepted his guilty plea and sentenced him to eight years, with five years executed in the Department of Correction and three years suspended to probation. Martin began serving his term of probation on November 9, 2020.

[3] In August 2022, the State filed five new charges against Martin in Cause Number 02D04-2208-F5-300 ("F5-300"). Then, on August 23, 2022, the State filed an amended petition to revoke Martin's placement on probation in F4-62. In that petition, the State alleged that Martin had committed several new offenses on August 13. In F5-300, Martin pleaded guilty to possession of cocaine, as a Level 5 felony,[2] and operating a vehicle while intoxicated, as a

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[1] Ind. Code § 35-47-4-5.

[2] I.C. § 35-48-4-6.

Class A misdemeanor.[3] The court accepted his guilty plea and sentenced him to concurrent terms of one year on each count, to be served at the Allen County Community Corrections Residential Services program. He also admitted to having violated the terms of his probation in F4-62. The court revoked his placement on probation for that cause and ordered him to serve three years at the Residential Services program.

[4] On October 27, Martin read and signed the Residential Services handbook, which outlined the rules of the community corrections program. Among others, one rule prohibited Martin from using "threatening, intimidating, or verbally abusive language" with staff. Tr. at 12. And another rule prohibited Martin from leaving an "approved location without any prior approval" from staff. *Id*.

[5] On December 22, Martin filed a request to have his placement modified to his sister's house. The court held a hearing on Martin's motion in January 2023. Following that hearing, the court ordered Martin to continue serving his sentence at the Residential Services facility, but, because of prior write-ups for "disrespectful behavior," Martin was placed on "zero tolerance." Appellant's App. Vol. 2 at 169.

[6] Each inmate at the Residential Services facility is assigned a "leave time," which is the time that they are allowed to leave each day for work. Tr. at 15.

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[3] I.C. § 9-30-5-2.

However, the facility has a "warm-up policy" that allows the inmates to leave ten minutes prior to his assigned leave time. *Id*. The policy is a "courtesy" to the inmates in order to allow them to "warm[] up" their vehicles. *Id*. at 16. Martin's assigned leave time was 6:45 a.m., so the earliest he was allowed to leave was 6:35 a.m.

[7] At 6:31 a.m. on February 28, 2023, Martin pushed a button to request to leave his pod. Officer Brandon Crawford informed Martin that he "had to wait a few more minutes" before he could leave. *Id*. at 15. Martin "kept hitting the button," and Officer Crawford again told Martin that he had to wait patiently. *Id*. Martin became "agitated," and he started pushing the button "every fifteen to thirty seconds." *Id*. at 24. Martin then "starting banging" on the pod office door. *Id*. at 16. Officer Crawford ordered Martin to stop and informed Martin that, unless he apologized for his "belligerent" behavior, he would have to wait until his assigned time of 6:45 a.m. to leave. *Id*. at 21. Martin did not apologize.

[8] At 6:36 a.m., another inmate in the same pod as Martin asked to leave to go to the laundry room. Officer Crawford opened the door to the pod to let the other inmate exit. At that point, Martin exited the pod without permission. Officer Crawford "informed" Martin that he needed to return to the pod, but Martin "did not respond" to Officer Crawford's commands. *Id*. at 17. Martin "ignored" Officer Crawford and requested to speak with a supervisor. Martin started "muttering," and his behavior became "[a]rgumentative." *Id*. at 18, 20. Martin spoke with a supervisor and was ultimately allowed to leave for work.

[9] On March 1, the State filed petitions to revoke Martin's community corrections placement in both F4-62 and F5-300. The State alleged that, on February 28, Martin had "failed to maintain good behavior by displaying disrespectful, argumentative, and aggressive behavior" toward Officer Crawford. Appellant's App. Vol. 2 at 169. In particular, the State alleged that he attempted to leave before his approved time and, when he was told it was not time, he "became aggressive by banging on the pod door, failed to follow multiple staff instructions[,] and proceeded to leave the pod without officers' permission. *Id*. at 169-70.[4]

[10] Following a hearing on the State's petitions, the court issued an order and found that Martin had "violated the terms and conditions of placement" and revoked his placement on community corrections. The court ordered Martin to serve three years of his previously suspended sentence in F4-62. The court also ordered Martin to serve an aggregate term of one year in F5-300, consecutive to his sentence F4-62. This appeal ensued.

Discussion and Decision

[11] Martin appeals the court's revocation of his placement on community corrections. Community corrections programs are alternatives to commitment to the Department of Correction. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999).

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[4] The State also alleged that he had failed to pay certain fees, but the court found that the State did not prove that claim by a preponderance of the evidence.

Placement in such programs is at the sole discretion of the trial court. *Id*. Furthermore, a defendant is not entitled to these alternatives; rather, such placement is a "matter of grace" and a "favor, not a right." *Id*.

[12] We review a trial court's revocation of the defendant's community corrections placement for an abuse of discretion. *Bennett v. State*, 119 N.E.3d 1057, 1058 (Ind. 2019). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances. *Id*. When reviewing a revocation of community corrections placement, we "consider all the evidence most favorable to supporting the judgment of the trial court" and do not reweigh the evidence or judge the credibility of witnesses. *Cox*, 706 N.E.2d at 551. So long as there is "substantial evidence of probative value to support the trial court's conclusion" that the defendant violated any term of his placement in community corrections, we will affirm the trial court's decision to revoke that placement. *Id*.

[13] Martin specifically contends that the court abused its discretion when it revoked his placement because, according to him, the "testimony showed that [he] was certainly frustrated by his situation [of not being allowed to leave early]" and "was trying to address the issue through proper channels by talking to" Officer Crawford's supervisor. Appellant's Br. at 16. He also contends that "[n]othing seemed to indicate that he was physically aggressive towards any of the participants" and that the "abusive language was no more than some sort of 'muttering' that Mr. Crawford could not specifically identify or testify to." *Id*.

[14] However, the facts most favorable to the trial court's judgment show that, despite an earliest possible leave time of 6:35 a.m., Martin hit a button and requested to leave at 6:31 a.m. on the morning of February 28, 2023. Officer Crawford informed Martin that he needed to wait until 6:35 a.m. But instead of waiting, Martin "kept hitting the button," and Officer Crawford kept telling Martin to wait. Tr. at 15. Martin became "agitated," and he started pushing the button "every fifteen to thirty seconds." *Id*. at 24. Martin then "started banging" on the pod office door. *Id*. at 16. Officer Crawford described Martin's behavior as "belligerent." *Id*. at 21.

[15] The evidence also shows that, when Officer Crawford allowed another inmate to leave the pod at approximately 6:36 a.m., Martin exited despite having been told by Officer Crawford that he could not leave prior to 6:45 a.m. Officer Crawford ordered Martin to return to the pod, but Martin "did not respond" to Officer Crawford's commands. *Id*. at 17. Rather, Martin "ignored" Officer Crawford. *Id*. at 18. Martin then started "muttering," and his behavior became "[a]rgumentative." *Id*. at 18, 20.

[16] In other words, when Martin was not granted permission to leave the pod earlier than 6:35 a.m., he became agitated and kept pushing the button to leave despite repeated requests from Officer Crawford to stop and wait until his assigned leave time. Martin then became belligerent and started banging on the door. And, despite a specific order from Officer Crawford to remain in the pod until 6:45 a.m., Martin left without permission and proceeded to ignore Officer Crawford's commands, and he became argumentative. Based on that evidence,

the trial court did not abuse its discretion when it found that Martin had violated the terms of his placement.

Conclusion

[17] The trial court did not abuse its discretion when it found that Martin had violated the rules of placement on community corrections. We therefore affirm the court's judgment.

[18] Affirmed.

May, J., and Felix, J., concur.