

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Douglas R. Hayden,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

November 20, 2023

Court of Appeals Case No.  
23A-CR-1417

Appeal from the Jefferson Superior  
Court

The Honorable Blaine S. Goode,  
Judge

Trial Court Cause No.  
39D01-2202-F6-105

**Memorandum Decision by Judge Tavitas**  
Judges Pyle and Foley concur.

**Tavitas, Judge.**

## **Case Summary**

- [1] The trial court entered an order revoking Douglas Hayden’s probation and ordering Hayden to serve the majority of his previously suspended sentence. Haden appeals and argues that the trial court abused its discretion by disregarding Hayden’s mental health when it revoked his probation and ordered him to serve the majority of his previously suspended sentence in the Department of Correction (“DOC”). We disagree and, accordingly, affirm.

## **Issue**

- [2] Hayden presents one issue, which we restate as whether the trial court abused its discretion by disregarding Hayden’s mental health when the trial court ordered him serve the majority of his previously suspended sentence as a result of his probation violation.

## **Facts**

- [3] On January 17, 2022, Hayden led police on a high-speed car chase while his girlfriend and her children were in his car. As a result, the State charged Hayden on February 1, 2022, with one count of resisting law enforcement with a vehicle, a Level 6 felony; four counts of criminal recklessness, Level 6 felonies; and one count of reckless driving, a Class C misdemeanor. Hayden subsequently entered into an agreement with the State in which he agreed to plead guilty to all charges save the misdemeanor and be sentenced to an aggregate sentence of 900 days, with seventy days executed and 830 days suspended to probation through community corrections. On September 28,

2022, the trial court accepted the plea agreement and sentenced Hayden pursuant to the terms of the agreement.

[4] On December 22, 2022, the State filed a petition to revoke Hayden’s probation and alleged that he violated the terms of his probation by committing the following crimes in the State of Kentucky on November 24, 2022: fleeing or evading police in the second degree;<sup>1</sup> resisting arrest;<sup>2</sup> menacing;<sup>3</sup> assault (child abuse) in the fourth degree;<sup>4</sup> and terroristic threatening in the third degree.<sup>5</sup> At the probation violation hearing held on May 25, 2023, Hayden admitted violating the terms of his probation by committing the offense of assault in the fourth degree in Kentucky—an offense that Hayden admitted involved his children. Hayden testified that he was under an order to submit to mental health counseling and drug abuse counseling in his Kentucky case. Hayden also stated that he had issues with his mental health, including depression, anxiety, bipolar disorder, borderline personality disorder, and schizophrenia. Hayden’s counsel asked that he be released back on probation and be allowed to live in a treatment facility until the staff at the facility believed that Hayden would be able to comply with the mental health treatment recommendations ordered in Hayden’s Kentucky probation. The State argued that Hayden’s

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<sup>1</sup> Ky. Rev. Stat. § 520.100.

<sup>2</sup> Ky. Rev. Stat. § 520.090.

<sup>3</sup> Ky. Rev. Stat. § 508.050.

<sup>4</sup> Ky. Rev. Stat. § 508.030.

<sup>5</sup> Ky. Rev. Stat. § 508.080.

probation should be revoked and that Hayden should execute the remainder of his sentence.

[5] The trial court ruled from the bench as follows:

[I] agree . . . that [ ] the criminal justice system is not a good place for people that have the mental health issues that you have, Mr. Hayden, and it's always difficult in [ ] making decisions in [these] types of cases because I know that on one hand you can't help the issues that you have. On the other hand, you've not really sought out and stuck with a treatment regimen in the past, and that's what scares me about this . . . . I would like for you to get the help that you need and it actually stick, and I think that the best that our system has to offer is some treatment through Department of Mental Health with the DOC . . . . [B]ecause of [ ] what it's going to take for me to get you somewhere where you might actually be able to get some help instead of just sitting in our county jail where you're gonna get no help, I have to give you less of a reduction than what I normally would. You have eight hundred and thirty days on the shelf. I'm going to revoke seven hundred and seventy-five of those days and those [are to be] served at the [DOC]. . . .

Tr. pp. 15-16. Hayden now appeals.

## Discussion and Decision

[6] Hayden admitted violating the terms of his probation by committing the Kentucky offenses.<sup>6</sup> Thus, the only question before us is whether the trial court

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<sup>6</sup> The requirement that a probationer obey federal, state, and local laws is automatically a condition of probation by operation of law. *Hammann v. State*, 210 N.E.3d 823, 832 (Ind. Ct. App. 2023), *reh'g denied*, *trans. denied*; *see also* Ind. Code § 35-38-2-1(b).

abused its discretion in sanctioning Hayden for his admitted probation violations. Hayden argues that the trial court abused its discretion by “revoking 775 days of Hayden’s 830 day suspended sentence when it failed to consider [Hayden]’s mental state in the commission of the new offense that violated his probation.” Appellant’s Br. 4.

### ***I. Standard of Review***

[7] “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” *Heaton v. State*, 984 N.E.2d 614, 616 (Ind. 2013) (quoting *Prewitt v. State*, 878 N.E.2d 184 188 (Ind. 2007)). It is within the trial court’s discretion to set probation conditions and revoke probation if the defendant violates these conditions. *Id.* “In appeals from trial court probation violation determinations and sanctions, we review for abuse of discretion. An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances, or when the trial court misinterprets the law.” *Hammann v. State*, 210 N.E.3d 823, 832 (Ind. Ct. App. 2023) (citing *Brown v. State*, 162 N.E.3d 1179, 1182 (Ind. Ct. App. 2021)) (citations and internal quotations omitted), *reh’g denied, trans. denied*.

### ***II. The Trial Court Did Not Abuse Its Discretion***

[8] On appeal, as he did below, Hayden argues that he needs treatment for his mental health issues, not incarceration. He argues, therefore, that the trial court should have ordered him to participate in mental health therapy rather than ordering him to serve 775 days of his previously suspended sentence. Hayden

argues that the trial court disregarded Hayden’s mental state at the time he committed the Kentucky offenses.<sup>7</sup> We disagree.

[9] The trial court explicitly considered Hayden’s mental health issues. The trial court noted that Hayden “c[ould]n’t help” the issues that he had. Tr. p. 16. The trial court also noted, however, that Hayden had never sought treatment or followed through with treatment in the past. For this reason, the trial court determined that the structured setting of the DOC was the best option for Hayden to receive effective mental health treatment. The trial court therefore revoked Hayden’s probation and ordered him to serve 775 days in the DOC.

[10] Moreover, we cannot ignore that Hayden was on probation in this case for only about two months before he committed the Kentucky offenses. Hayden had also been shown the grace of probation in the past, yet this failed to deter him from repeating his criminal behavior. Although Hayden attributes much of his criminal behavior to his mental health issues, this supports the trial court’s decision to place Hayden in the DOC, where he will, hopefully, receive the treatment he needs. Accordingly, we cannot say that the trial court abused its

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<sup>7</sup> In *Patterson v. State*, 659 N.E.2d 220, 222-23 (Ind. Ct. App. 1995), we observed that “at a minimum, a probationer’s mental state must be considered in the dispositional determination of a probation revocation proceeding.” In *Gaddis v. State*, 177 N.E.3d 1227, 1229 (Ind. Ct. App. 2021), however, we held that “consideration of a probationer’s mental health is only required where: (1) the State alleges the probationer has violated probation by committing a new crime and (2) the probationer’s mental health issues affect the probationer’s degree of culpability with regard to that new crime.” (citing *Hill v. State*, 28 N.E.3d 348, 350 (Ind. Ct. App. 2015)). Regardless of whether Hayden made such a showing here, the trial court considered Hayden’s mental health at the probation revocation hearing.

discretion by revoking Hayden's probation and ordering him to serve 775 days of his previously suspended sentence.

## **Conclusion**

[11] The trial court considered Hayden's mental health issues and Hayden's failure to adequately seek or complete treatment for these issues in deciding to revoke Hayden's probation. We conclude, therefore, that the trial court did not abuse its discretion by revoking Hayden's probation and ordering him to serve 775 days of his previously suspended sentence in the DOC—a more structured setting where Hayden will have the opportunity to receive treatment. Accordingly, we affirm the judgment of the trial court.

[12] Affirmed.

Pyle, J., and Foley, J., concur.