

MEMORANDUM DECISION

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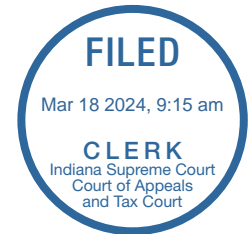


IN THE
Court of Appeals of Indiana

Antoine Lamar Williams,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



March 18, 2024

Court of Appeals Case No.
23A-CR-2244

Appeal from the Harrison Superior Court
The Honorable Joseph L. Claypool, Judge

Trial Court Cause No.
31D01-0903-FA-150

Memorandum Decision by Judge Weissmann
Judges Mathias and Tavitav concur.

Weissmann, Judge.

- [1] While on probation for child molesting, Antoine Williams failed to report to the probation department as required for a period of three years. During this time, Williams knowingly lived at a home deemed unacceptable for his probation due to its proximity to two youth program centers. The trial court concluded that Williams violated the terms of his probation and, as a sanction, ordered him to serve eight years of his previously suspended sentence in the Indiana Department of Correction (DOC). Williams appeals this sanction as too severe. We find the trial court did not abuse its discretion and affirm.

Facts

- [2] In 2012, Williams pleaded guilty to two counts of Class B felony child molesting. The trial court sentenced him to a total of 30 years in the DOC, with 18 years executed and 12 years suspended. The court also ordered Williams to serve 10 years of his suspended sentence on supervised probation in Harrison County. The terms of Williams's probation required, among other things, that he report to the probation department as directed and not reside within 1,000 feet of a youth program center.
- [3] By January 2020, Williams was out of prison with 8½ years remaining on his probationary term. He soon applied to transfer his probation to St. Joseph County so he could reside with his grandmother in South Bend. But the probation department denied the transfer, concluding Williams's grandmother lived within 1,000 feet of two youth program centers.

- [4] On January 24, Williams's probation officer contacted Williams, advised him of the transfer denial, and instructed him to find a different residence. The officer also directed Williams to call her back on January 27 so they could resubmit his transfer application with his new address. Williams did not call back until February 11, on which date he left a message with a probation department secretary indicating that he was residing at his grandmother's home but would be moving out in a few days.
- [5] The next day, the State filed a petition to revoke Williams's suspended sentence based on two alleged probation violations: (1) failing to report to the probation department as directed; and (2) residing within 1,000 feet of a youth program center. The trial court issued a summons ordering Williams to appear for an initial hearing on the petition, and when Williams failed to appear, the court issued a warrant for his arrest. With knowledge of the warrant, Williams absconded for the next three years, during which he made no attempt to contact the probation department.
- [6] Williams was finally arrested in March 2023, after which the trial court held a hearing on the State's petition to revoke his suspended sentence. At the hearing, Williams admitted that he failed to report to the probation department as directed and that he had lived with his grandmother for the last three years. According to Williams, his grandmother was dying during that time and required his care. Williams also testified that he, himself, was dying from congestive heart failure, liver failure, and kidney disease.

[7] Ultimately, the trial court found that Williams violated the terms of his probation by failing to report to the probation department as directed.¹ As a sanction, the court revoked Williams’s probation and ordered him to serve eight years of his previously suspended sentence in the DOC.

Discussion and Decision

[8] Williams appeals the trial court’s sanction, arguing that it is too severe given the circumstances of his probation violation. “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). “Accordingly, we review a trial court’s decision to revoke probation for an abuse of discretion.” *Neidhamer v. State*, 213 N.E.3d 1052 (Ind. Ct. App. 2023). “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances.” *Prewitt*, 878 N.E.2d at 188.

[9] Williams claims the trial court abused its discretion by ordering him to serve eight years of his previously suspended sentence in the DOC as a sanction for failing to report to the probation department as directed. According to Williams, failing to report is a “relatively minor,” “unserious,” and “not particularly egregious” violation that did not warrant such an “extreme sanction.” Appellant’s Br., pp. 9, 11, 12. The devil, of course, is in the details.

¹ The State presented minimal evidence that Williams resided within 1,000 yards of a youth program center while living with his grandmother, and the trial court made no finding as to that alleged probation violation.

[10] While on probation for child molesting, Williams's probation officer advised him that his grandmother's home was not an acceptable residence for him due to its proximity to two youth program centers. The officer directed Williams to find a different residence and to call her back in three days. But Williams did not call back until fourteen days later. At that time, Williams indicated that he was residing at his grandmother's home but would be moving out in a few days. Williams, however, did not move. He resided at his grandmother's home for the next three years and never contacted the probation department again.

[11] As he did at the revocation hearing, Williams asserts that he was caring for his dying grandmother during his three years of abscondment and that he currently has several life-threatening illnesses himself. But Williams offers no explanation for how these facts dictate a conclusion that the trial court abused its discretion in ordering him to serve eight years of his previously suspended sentence. Thus, we are left to conclude no such error occurred.

[12] Affirmed.

Mathias, J., and Tavitas, J., concur.

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