

Stephen L. Hearld appeals the revocation of his probation. We affirm.

FACTS AND PROCEDURAL HISTORY

On August 24, 2006, Hearld pled guilty to Class D felony operating a vehicle while intoxicated¹ in Decatur County. On September 21, 2006, he was sentenced to eight months on work release, followed by four months on home detention and then two years on supervised probation.²

Hearld began his probationary period on June 15, 2007. On September 7, 2007, in Bartholomew County, he committed the offense of operating a vehicle after being adjudged an habitual traffic offender. He was convicted of that offense on January 9, 2008, and was sentenced to a year of supervised probation. He completed his probation on the Bartholomew County case without telling his Decatur County probation officer about it.

On March 29, 2009, Hearld battered Sascha Collins, the mother of some of his children. Collins had cuts and bruises on her face and neck. On March 30, Hearld was charged in Decatur County with Class A misdemeanor domestic battery³ and Class A misdemeanor interference with reporting a crime.⁴ On the same day, a petition to revoke Hearld's probation was filed. Subsequently, the Decatur County Probation Department learned of Hearld's conviction in Bartholomew County and filed a supplemental petition to revoke.

¹ Ind. Code § 9-30-5-3.

² The trial court later modified the sentence so that more of the first year of Hearld's sentence would be served on home detention.

³ Ind. Code § 35-42-2-1.3.

⁴ Ind. Code § 35-45-2-5.

Hearld entered into a plea agreement that disposed of the new Decatur County charges and the petition to revoke probation. Hearld pled guilty to the battery, and the State dismissed the charge of interference with reporting a crime. The State recommended a sentence of one year with no more than six months in jail. The prosecutor indicated he was recommending some time on probation because Collins had some medical bills and was requesting restitution.

The parties also agreed Hearld would admit the probation violations, but would leave the sentence to the court's discretion. Hearld's probation officer, Benjamin Buening, testified Hearld had not told him about the Bartholomew County conviction and sentence. Buening acknowledged Hearld had successfully completed home detention and had made all his appointments until he was arrested.

On the domestic battery conviction, the trial court sentenced Hearld to six months in jail and six months on probation. The trial court also revoked Hearld's probation and ordered him to serve the previously suspended sentence.

DISCUSSION AND DECISION

Hearld argues the trial court should not have ordered him to serve the entirety of his previously suspended sentence. "Probation is a matter of grace and a conditional liberty that is a favor, not a right." *Taylor v. State*, 820 N.E.2d 756, 760 (Ind. Ct. App. 2005), *trans. denied*. When a trial court finds a person has violated a condition of probation, it may continue the person on probation, extend the probationary period, or order execution of all or part of the sentence that was originally suspended. Ind. Code §

35-38-2-3(g). We review for abuse of discretion the sentencing decision in a probation revocation proceeding. *Podlusky v. State*, 839 N.E.2d 198, 200 (Ind. Ct. App. 2005).

In deciding to revoke Hearld's probation, the trial court stated: "I would be more sympathetic to what you're saying if you were here on a traffic offense as your only conviction, which is bad enough . . . but your other offense is a . . . savage beating of the mother of at least some of your children." (Tr. at 30.) Hearld argues the court's characterization of the battery as "savage" is an exaggeration, and he notes the offense was charged only as a Class A misdemeanor. *Cf.* Ind. Code § 35-42-2-1(a)(3) (battery is a Class C felony if it results in serious bodily injury). He also notes his sentence on the battery offense included some suspended time.

We do not find these arguments compelling. The trial court imposed the maximum executed time recommended by the State pursuant to Hearld's plea agreement. The State agreed to recommend some time on probation not because the beating was not "savage," but because the victim was requesting restitution. Pictures admitted as an exhibit at the hearing show the victim's face was badly swollen and bruised. In characterizing the beating as "savage," the trial court also expressed concern that it was directed at the mother of some of his children. The trial court was also contrasting the battery offense with Hearld's other conviction, which was a traffic offense. In sum, we cannot say the trial court exaggerated the seriousness of Hearld's probation violations. *See American Heritage Dictionary of the English Language, available at <http://education.yahoo.com/referencedictionary/entry/savage> (defining "savage" as, among other things, "Not civilized; barbaric") (last visited Nov. 20, 2009).*

While Hearld apparently complied with many of the conditions of his probation, such as meeting with his probation officer as scheduled, the ultimate goal was for Hearld to lead a law-abiding life. Instead, he committed two new offenses. The trial court did not abuse its discretion by ordering Hearld to serve his previously suspended sentence.

Affirmed.

KIRSCH, J., and DARDEN, J., concur.