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FILED
Jan 31 2011, 9:47 am
CLERK
of the supreme court, court of appeals and tax court

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IN THE
COURT OF APPEALS OF INDIANA

GARY G. LANE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 15A01-1007-CR-346
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE DEARBORN CIRCUIT COURT
The Honorable James D. Humphrey, Judge
Cause No. 15C01-0701-FC-2

January 31, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Gary Lane appeals the sentence imposed following the revocation of his probation. We affirm.

Issue

Lane raises one issue, which we restate as whether the trial court abused its discretion when it ordered him to serve the remainder of his suspended sentence in the Department of Correction ("DOC").

Facts

In 2007, Lane was convicted of Class C felony forgery and Class D felony theft. On the Class C felony, he was sentenced to four years, with two of the four years suspended. On the Class D felony he was sentenced to three years, with all three years suspended. In 2008, while on probation, Lane violated the terms of his probation, and the trial court ordered him to serve a portion of his previously suspended sentence in the DOC.

On December 14, 2009, the State filed a petition alleging Lane again violated the terms of his probation when he committed Class A misdemeanor operating a vehicle while intoxicated and Class A misdemeanor operating a vehicle with a BAC of .15% or higher. The State also alleged that Lane violated probation by consuming alcohol and failing to make any restitution payments. On June 24, 2010, Lane admitted to the allegations. The trial court revoked Lane's probation and ordered him to serve the remaining three-year suspended sentence in the DOC. Lane now appeals.

Analysis

Lane argues that the trial court abused its discretion when it ordered him to serve the remainder of his suspended sentence in the DOC following the revocation of his probation. "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 determines the conditions of probation and may revoke probation if the conditions are violated." Id. (citing Ind. Code § 35-38-2-3). A trial court's sentencing decisions for probation violations are reviewable using the abuse of discretion standard. Id. "An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances." Id. Upon the revocation of probation, the trial court may: (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 year beyond the original probationary period; and (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing. I.C. § 35-38-2-3(g).

Lane argues that the trial court should have favorably considered his admission to the probation violation allegation. Lane also points out that his criminal history is mostly alcohol-related and that he needs proper treatment for his addiction. Lane asserts that in this era of overcrowded prison populations and burgeoning drug treatment options, an alternative to incarceration should have been considered.

Lane, however, has a criminal history, which includes many alcohol-related convictions. Further, his probation was previously revoked following a cocaine-related allegation. While on probation, Lane has not been able to conduct himself in accordance

with the law. Simply put, it was within the trial court's discretion to order Lane to serve the remainder of his suspended sentence in the DOC, and Lane has not shown that the trial court abused that discretion.

Conclusion

The trial court did not abuse its discretion in ordering Lane to serve the remainder of his suspended sentence in the DOC. We affirm.

Affirmed.

BAKER, J., and VAIDIK, J., concur.