

Case Summary

Kevin T. Pettiford (“Pettiford”) appeals from the trial court’s revocation of home detention with Delaware County Community Corrections. He raises a single issue for our review, which we reframe as whether the trial court’s decision to revoke home detention was an abuse of discretion.

We affirm.

Facts and Procedural History

On August 22, 2006, Pettiford was charged with Burglary, as a Class C Felony, and Theft, as a Class D felony, with an additional count seeking a habitual offender enhancement. On September 1, 2006, Pettiford was charged in an unrelated case with two counts of Burglary, as Class C felonies, and two counts of Theft, as Class D felonies, with an additional count seeking a habitual offender enhancement. On August 8, 2007, Pettiford pled guilty to one count of Burglary in each case, each as a Class C felony. He was sentenced to six years imprisonment on each count, with the sentences to run consecutively.

On June 25, 2009, Pettiford filed a Motion for Alternative Placement requesting placement with Delaware County Community Corrections. The trial court granted Pettiford’s motion on August 26, 2009, allowing him to serve the remainder of his sentence by electronically-monitored home detention. Pettiford was apprised of the requirements of home detention, which included completing a substance abuse treatment program, abstaining from the use of alcohol or illicit drugs, submitting to drug testing, and remaining in his home unless authorized to leave by his case manager.

Pettiford tested positive for use of cocaine on November 9, 16, and 30, 2009, and again on January 12 and 19, 2010. The November 9 test also revealed that he had used marijuana, and the November 16 test revealed use of alcohol. Pettiford admitted that he had used those substances on each occasion. On November 14, 2009, and December 9, 2009, the electronic monitoring system in Pettiford's home registered him as being out of range without permission.

On January 27, 2010, the State filed a Petition for Warrant on Revocation and Executed Sentence on Violation of Terms of Direct Commitment and a Motion for Issuance of Warrant. A warrant was issued the same day. Pettiford was arrested and incarcerated in the Delaware County Jail on August 29, 2010. On March 31, 2010, after an evidentiary hearing, the trial court revoked Pettiford's home detention and ordered him to serve the rest of his sentence with the Indiana Department of Correction.

This appeal followed.

Discussion and Decision

Pettiford challenges the revocation of his home detention as improper because, though he tested positive for the use of drugs, he was not charged with another crime. Placement in a community corrections program is “a matter of grace” and a “conditional liberty that is a favor, not a right.” Cox v. State, 706 N.E.2d 547, 549 (Ind. 1999). “Our standard of review of an appeal from the revocation of a community corrections placement mirrors that for revocation of probation.” Id. at 551. We review such decisions for an abuse of discretion, which occurs when the trial court's decision is against the logic and effect of the facts and

circumstances before it. Whatley v. State, 847 N.E.2d 1007, 1009 (Ind. Ct. App. 2006). Such proceedings are civil in nature, and the State need only prove a violation by a preponderance of the evidence. Cox, 706 N.E.2d at 551. We consider only the evidence most favorable to the judgment of the trial court, and neither reweigh evidence nor judge the credibility of witnesses. Where there is substantial evidence of probative value to support the conclusion of the trial court, we will affirm the revocation of a community corrections placement. Cox, 706 N.E.2d at 551. As with probation, violation of a single condition of community corrections rules is sufficient to revoke such a placement. Gosha v. State, 873 N.E.2d 660, 663-64 (Ind. Ct. App. 2007).

Here, Pettiford tested positive on numerous occasions for use of cocaine, marijuana, and alcohol, and after each positive test admitted that he had used these substances. Records from Community Corrections also show that Pettiford was outside of the range of tracking devices at least twice when not authorized to be away from his home, which was also a violation of the terms of home detention. Pettiford does not contend that he did not violate at least the substance use terms of his probation, arguing instead that he was not charged with a crime as a result of his substance use and therefore is entitled to retain his community corrections placement. This is a request to reweigh the evidence, which we will not do. Cox, 706 N.E.2d at 551.

One violation of either of the requirements at issue is enough to allow a trial court to revoke a community corrections placement. Because there was evidence to support the trial court's conclusion that Pettiford violated the terms of his home detention, we do not

conclude that the trial court abused its discretion when it revoked his home detention.

Affirmed.

NAJAM, J., and DARDEN, J., concur.