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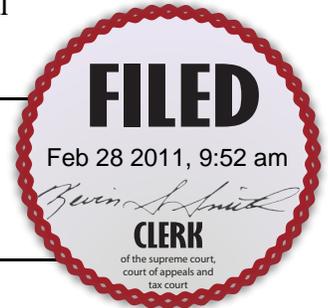
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**IN THE
COURT OF APPEALS OF INDIANA**



ERIC DANIELS,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A02-1005-CR-513

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Grant W. Hawkins, Judge
Cause No. 49G05-0712-FB-256955

February 28, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Eric Daniels appeals the revocation of his probation. We affirm.

FACTS AND PROCEDURAL HISTORY

Daniels pled guilty to Class B felony robbery.¹ On March 18, 2008, the court sentenced Daniels to eight years, with four years suspended and two years on probation. As conditions of his probation, the court ordered Daniels to refrain from criminal activity, obtain his GED, provide employment verification, pay fees assessed as a part of his probation, and pay restitution to the victim. He began probation on July 9, 2009.

On January 14, 2010, Daniels was arrested and charged with Class B felony burglary² and Class D felony receiving stolen property.³ The State filed a Notice of Probation violation on January 26, noting the arrests and alleging Daniels did not obtain his GED, provide employment verification, or make payments toward his probation-related financial obligations.

After a jury found Daniels guilty, the court held a consolidated hearing in which it sentenced Daniels for the burglary and receiving stolen property charges; revoked his probation; and ordered him to serve the previously-suspended sentence for robbery consecutive to his sentences for burglary and receiving stolen property.

DISCUSSION AND DECISION

Probation revocation proceedings are civil in nature, and the State must prove a violation of the conditions of probation by a preponderance of the evidence. Ind. Code § 35-

¹ Ind. Code § 35-42-5-1.

² Ind. Code § 35-43-2-1(1).

³ Ind. Code § 35-43-4-2(b).

38-2-3(e). The decision to revoke probation is reviewed for an abuse of discretion. *Sanders v. State*, 825 N.E.2d 952, 956 (Ind. Ct. App. 2005), *trans. denied*. An abuse of occurs when the trial court's decision is against the logic and effect of the facts and circumstances before it. *Id.* When reviewing the sufficiency of evidence supporting a probation revocation, we neither reweigh the evidence nor judge the credibility of witnesses, but look at the evidence most favorable to the State. *King v. State*, 642 N.E.2d 1389, 1393 (Ind. Ct. App. 1994). If there is substantial evidence of probative value to support the trial court's decision that the probationer violated probation, revocation is appropriate. *Id.*

Daniels asserts the State offered no evidence he violated probation and the trial court erred when it took judicial notice of the proceedings involving the crime that led to Daniels' probation revocation. Where, as here, the court consolidates sentencing and probation revocation hearings into one, it may take judicial notice of the content of the sentencing portion of the consolidated proceeding when making its decision regarding the revocation of probation. *Bane v. State*, 579 N.E.2d 1339, 1341 (Ind. Ct. App. 1991). Thus, if evidence of a conviction was admitted in the sentencing phase of the hearing, it conclusively establishes that a crime was committed "for purposes of the immediately subsequent probation revocation phase." *Id.*

During the single hearing, the trial court noted the new convictions for which Daniels was being sentenced, sentenced him, and proceeded to address the probation revocation. Under this circumstance, the State was not required, during the probation revocation phase of the consolidated hearing, to present additional evidence of Daniels' new convictions. *Id.*

The trial court had evidence before it that Daniels committed new offenses while he was on probation, and thus revocation of his probation was appropriate.

Affirmed.

FRIEDLANDER, J., and MATHIAS, J., concur.