

Case Summary

Steven Sanders appeals the sentence imposed following the revocation of his probation. We affirm.

Issue

Sanders 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 2006, Sanders was convicted of Class B felony sexual misconduct with a minor and sentenced to ten years, with four years suspended to probation. In 2008, Sanders was released from incarceration and placed on probation. According to the terms of his probation, Sanders was prohibited from committing another criminal offense or consuming alcoholic beverages and was required to attend counseling as required by his probation officer. On March 1, 2010, the State filed a petition alleging Sanders violated the terms of his probation while living in Minnesota by committing the criminal offense of giving a peace officer the name of another person, consuming alcoholic beverages on two separate occasions, and failing to attend alcohol treatment. On May 28, 2010, Sanders admitted to these allegations. The trial court revoked Sanders’s probation and ordered him to serve the remainder of his suspended sentence in the DOC. Sanders now appeals.

Analysis

Sanders 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).

Sanders contends that the trial court should have favorably considered his admission to the probation violations. Sanders also points out that his criminal history is mostly alcohol-related and that his alcohol addiction is “long rooted in his past.” Appellant’s Br. p. 5. Indeed, Sanders’s first alcohol-related arrest was in 1987, when he was thirteen. Focusing on the state’s budget concerns and overcrowded prisons, Sanders also contends an alternative to incarceration is appropriate.

As the trial court pointed out, however, Sanders has not shown the level of commitment necessary to deal with his alcohol problem. The trial court also considered

the seriousness of the underlying offense, Class B felony sexual misconduct with a minor. The trial court concluded that the combination of Sanders's continued drinking and sex offense conviction created a "significant danger to the community[.]" Tr. p. 61. Given Sanders's inability to successfully treat his alcohol problem after more than twenty years of involvement in the criminal justice system and the underlying conviction, Sanders has not established that the trial court abused its discretion in revoking his probation and ordering him to serve the remainder of his sentence in the DOC.

Conclusion

The trial court did not abuse its discretion when it ordered Sanders to serve the remainder of his suspended sentence in the DOC. We affirm.

Affirmed.

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