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# IN THE
# COURT OF APPEALS OF INDIANA

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|---|---|---|
| GEORGE J. RANARD, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 52A02-0911-CR-1066 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE MIAMI SUPERIOR COURT
The Honorable Daniel C. Banina, Judge
Cause No. 52D02-0903-FD-61

**March 10, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

## Case Summary

George Ranard appeals the sentence imposed following the revocation of his probation. We affirm.

## Issue

Ranard 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 following the revocation of his probation.

## Facts[1]

On May 14, 2009, Ranard was convicted of Class D felony domestic battery. The conviction arose out of a March 10, 2009 incident between Ranard and B.B., the mother of his child. The trial court sentenced Ranard to one and one-half years, suspended all of the sentence except for the 130 days that he had already served,[2] and placed him on probation for the remainder of the sentence. The trial court also ordered that the order prohibiting him from having contact with B.B. remain in effect. Among other things, the terms of Ranard's probation prohibited him committing additional crimes and contacting B.B. Ranard was also required to notify the probation department within twenty-four hours of any change of address.

At some point, Ranard started living with B.B. On August 28, 2009, in a petition to revoke Ranard's probation, the State alleged that he committed invasion of privacy, had contact with B.B., and failed to notify the probation department of his address.

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[1] We note that page 2 of the Appellee's Brief is missing.

[2] Ranard actually served sixty-five days and was given credit time for sixty-five days.

Ranard pled guilty to committing invasion of privacy. At the sentencing hearing on the invasion of privacy conviction, Ranard admitted to violating the terms of his probation. When the trial court rendered its sentencing decision, it stated:

> Well here's the way I look at it. Uh, obviously your prior criminal record is an aggravating factor for this case. You have three prior convictions for Domestic Battery, uh, you also have a conviction for Residential Entry and it appears you have two warrants out for you for other things. It looks to me like you have been a dismal failure on probation in the past. You have difficulties showing up for hearings and showing up for court. Uh, counsel suggests I, you should get some credit for coming in and, and admitting the violation, uh without any kind of agreement. Uh, I guess you can look at that two different ways. Uh, you are trying to facilitate justice and go forward or you are trying to hide the fact that you had all of this prior record which I knew nothing about until today. Uh, had we not asked for the presentence update, uh, you probably would have got out of here with, uh, virtually nothing. But as I see now you have a considerable record, including going back to juvenile. Uh, I think probation is a waste of time with you. On the, uh, probation violation the Court is going to, uh, order the balance of the sentence which was, uh, one year and fifty days. . . .

Tr. p. 23. Ranard now appeals.

**Analysis**

Ranard argues the trial court improperly ordered him to serve the remainder of his suspended sentence 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 Indiana Code Section 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. Ind. Code § 35-38-2-3(g).

Although Ranard argues the trial court abused its discretion in revoking his probation, the substance of his argument relates to the sanction imposed by the trial court upon finding that he violated his probation. Specifically, Ranard contends the trial court attributed an improper motivation to his admission of the probation violation, the trial court should have given him credit for admitting his violations, and the sanction is overly harsh given the fact that he violated the terms of his probation "so he would have a roof over his head and his child nearby." Appellant's Br. p. 9. Even if all of these arguments are true, he has not established that the trial court abused its discretion in ordering him to serve the remainder of his suspended sentence.

Ranard was convicted of battering B.B. After he was released from jail he lived with B.B. despite the no contact order and the term of probation prohibiting him from having contact with her. At the age of twenty-five, Ranard's criminal history included two other domestic battery convictions, one of which involved B.B., and a residential entry conviction, failed attempts at probation, and outstanding warrants. The trial court explained that probation was not a suitable option for Ranard. It was within the trial

court's discretion to order Ranard to serve the remainder of his suspended sentence following the revocation of his probation.

Ranard also claims that, based on the ninety-eight-day sentence for the invasion of privacy conviction, the trial court viewed the violation of the protective order as minor conduct. He argues he should not have received "the equivalent of an additional 14 months in prison as a result of his probation revocation based on the same minor conduct." Appellant's Br. p. 9. First, we strongly disagree with Ranard's assertion that the violation of a no contact order is only a minor transgression. Further, Ranard was not sentenced to fourteen months in prison for violating the no contact order; instead, the fourteen-month-sentence is based on his conviction for battering B.B. This argument is unavailing.

## Conclusion

The trial court did not abuse its discretion in revoking Ranard's probation and ordering him to serve the remainder of his sentence. We affirm.

Affirmed.

MATHIAS, J., and BROWN, J., concur.