



Anthony R. Bradford (“Bradford”) appeals the revocation of his probation, arguing that the trial court abused its discretion by ordering Bradford to serve the remainder of his suspended sentence for Home Improvement Fraud<sup>1</sup> as a Class C felony.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On September 16, 2005, Bradford was charged with two counts of Home Improvement Fraud as Class C felonies, and two counts of Home Improvement Fraud as Class D felonies. On January 25, 2007, Bradford pleaded guilty to one count of Home Improvement Fraud as a Class C felony, and the other charges against him were dismissed. The trial court sentenced Bradford to four years imprisonment with all but one hundred and eight days suspended to probation. Bradford had credit for fifty-four days served, and the trial court placed Bradford on probation for three years and two-hundred-fifty-seven days. The trial court expressly authorized the transfer of supervision of Bradford’s probation to Tennessee.

On April 9, 2008, the State filed a petition to revoke Bradford’s probation. After a hearing on July 2, 2008, the trial court found that Bradford had violated the conditions of his probation and ordered Bradford to serve the remainder of his previously suspended sentence with credit for twenty days. Bradford now appeals.

### **DISCUSSION AND DECISION**

Probation is a criminal sanction wherein a convicted defendant specifically agrees to accept conditions upon his behavior in lieu of imprisonment. *Brabandt v. State*, 797

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<sup>1</sup> See Ind. Code § 35-43-6-12 & 13(c).

N.E.2d 855, 860 (Ind. Ct. App. 2003). These restrictions are designed to ensure that the probation serves as a period of genuine rehabilitation and that the public is not harmed by a probationer living within the community. *Id.*

A defendant is not entitled to serve a sentence in a probation program; rather, such placement 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). Upon finding that a probationer has violated a condition of probation, a trial court may either continue probation, with or without modifying or enlarging the conditions, extend probation for not more than one year beyond the original probationary period, or order execution of the initial sentence that was suspended. Ind. Code § 35-38-2-3(g). The decision whether to revoke probation is a matter within the sound discretion of the trial court. *Brabandt*, 797 N.E.2d at 860. The violation of a single condition of probation generally is sufficient to revoke probation. *Id.* On review, we consider only the evidence most favorable to the judgment without reweighing that evidence or judging the credibility of witnesses. *Packer v. State*, 777 N.E.2d 733, 740 (Ind. Ct. App. 2002). If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation. *Id.*

Part of the recorded proceedings from the probation revocation hearing could not be recovered. However, based upon the partial transcript and the record before us, the Indiana probation officer testified that Bradford's probation had been transferred to Tennessee, but Bradford had never contacted the probation department in Tennessee. The last contact the Indiana probation officer had with Bradford was in April 2007 when

Bradford told her that he was attempting to contact the Tennessee probation department. The address on file with the probation officer was a Tennessee address, but Bradford could not be contacted at that address. During an attempted home contact the Tennessee probation authorities learned from Bradford's mother that he had returned to Indiana. Bradford had not reported a change of address to either probation office.

The Indiana probation officer testified that Bradford had a history of not showing up when he was awaiting his original sentencing, and that he did not appear for his pre-sentence report. Of the eight hundred hours of community service, with a minimum of two hundred hours per year, ordered as a condition of probation, Bradford had submitted proof of zero hours of completion.

Bradford's statement of evidence includes a summary of his own testimony at the probation revocation hearing. Bradford stated that: 1) he failed to comply with the terms of probation; 2) he returned to Indiana to be near his daughter who was ill; and 3) his drug addiction was causing him to make poor decisions. *Appellant's App.* at 25. Bradford stated that this was his first violation and that he hoped that the trial court would be lenient in its disposition.

The trial judge, in his "Judge's Certificate in Compliance with Appellate Rule 7.2(A)(3)(c)," stated that he did "not have a present recollection of any comments which [he] may have made at the conclusion of the evidence or in pronouncing judgment." *Id.* at 28. However, our review of the record leads us to the conclusion that the trial judge did not abuse his discretion in imposing the remainder of Bradford's previously suspended sentence. Given Bradford's history of failing to appear for a pre-sentence

investigation interview resulting in the issuance of a warrant, Bradford's failure to report to probation in Tennessee, and Bradford's failure to complete any community service, notwithstanding Bradford's admission of a drug addiction, the trial court's decision was not against the logic and effect of the facts and circumstances.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.