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FILED
Jun 15 2009, 8:42 am
CLERK
of the supreme court, court of appeals and tax court

ATTORNEY FOR APPELLANT:

PATRICIA CARESS MCMATH
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

JOBY D. JERRELLS
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

KYLE T. CHANDLER,	)	
	)	
Appellant- Defendant,	)	
	)	
vs.	)	No. 01A05-0812-CR-758
	)	
STATE OF INDIANA,	)	
	)	
Appellee- Plaintiff,	)	

APPEAL FROM THE ADAMS CIRCUIT COURT
The Honorable Frederick A. Schurger, Judge
Cause No. 01C01-0308-FC-27
01C01-0309-FC-30

June 15, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Kyle Chandler appeals the trial court's order that he serve the nine previously-suspended years of his sentence for three counts of burglary, Class C felonies, and auto theft, a Class D felony, upon finding that he violated his probation. He raises one issue for our review, whether the trial court abused its discretion in imposing the entirety of his previously-suspended sentence. Concluding that the trial court did not abuse its discretion in imposing the nine-year sentence, we affirm.

Facts and Procedural History

Chandler was charged with two counts of burglary, all Class C felonies (Count I and IV of Case 27); auto theft, a Class D felony (Count III); and illegal consumption of alcohol, a Class C misdemeanor.[1] In a separate case, Chandler was charged with burglary, a Class C felony (Case 30). In a plea agreement addressing both cases, Chandler pled guilty to three counts of burglary and to auto theft, in exchange for which the State dismissed the illegal consumption of alcohol count. Pursuant to the terms of the plea agreement, the trial court sentenced Chandler to eight years for Count I of burglary with five years suspended, and eight years for Count IV of burglary with five years suspended, with these sentences to be served concurrent with each other; two years for Count III of auto theft, with this sentence to be served consecutive to the sentences in Counts I and IV; and eight years for burglary in Case 30 with four years suspended, the sentence to be consecutive to those in Case 27. Chandler's aggregate sentence was eighteen years with nine years suspended.

[1] The case originated in juvenile court, but Chandler was waived to adult court.

Chandler was released from the Department of Correction to probation on August 25, 2007. On July 31, 2008, a violation petition was filed alleging that Chandler had been arrested on July 5, 2008, and charged with public intoxication, at which time he had a .14% blood alcohol concentration and had alcohol in his possession, all in violation of the terms of his probation. On August 7, 2008, a second violation petition was filed alleging that Chandler had been arrested on July 18, 2008, and charged with public intoxication, at which time he had a .19% blood alcohol content. On September 3, 2008, a third violation petition was filed alleging that Chandler had been arrested on August 14, 2008, and charged with six counts of burglary. At the probation revocation hearing, Chandler admitted the allegations of the violation petitions, and the trial court found that Chandler had violated the terms of his probation, imposing the previously-suspended, five-year sentence in Case 27 to be served consecutive to the previously-suspended, four-year sentence in Case 30. Chandler now appeals the sentence imposed.

Discussion and Decision

I. Standard of Review

When a trial court determines that a probationer has violated a condition of his probation, it may impose one or more of the following sanctions: 1) continue probation, with or without modifying or enlarging the conditions; 2) extend the 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 the initial sentencing. Ind. Code § 35-38-2-3(g). We review a trial court's sentencing decision revoking a defendant's probation for an abuse of discretion. Prewitt v. State, 878 N.E.2d

184, 188 (Ind. 2007) ("Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed."). An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances before the trial court. Id.

II. Reinstatement of Previously-Suspended Sentence

Chandler contends that the trial court abused its discretion in imposing the entire nine-year suspended sentence because he "is making efforts to change his life," appellant's brief at 5, completed his GED and took substance abuse classes while incarcerated, has a child that needs support, has to pay court-ordered restitution to his victims, and is receiving an eight-year sentence in the new burglary cases that will be served consecutive to his sentence in this case. At the revocation hearing, Chandler gave a statement indicating that whereas in the past, he had committed burglaries for "fun" and in order to facilitate his alcohol and drug usage, the most recent burglaries were committed "as a means of survival." Tr. at 8.

Although we acknowledge the steps Chandler took while incarcerated to improve himself, he was out of jail not quite one year before he began committing additional crimes, including two alcohol-related offenses and a six-day burglary spree within six weeks of each other. As these offenses are virtually the same offenses for which he was on probation, Chandler has clearly learned very little from his earlier incarceration. The trial court was authorized by statute to order Chandler to serve all of his previously-suspended sentence, and we see no abuse of its discretion in doing so under these circumstances. See Milliner v. State, 890 N.E.2d 789, 793 (Ind. Ct. App. 2008) (holding

that defendant's commission of multiple offenses in a relatively short period of time and violation of multiple terms of his probation showed a lack of respect for the law and opportunities afforded him and reinstatement of entire previously-suspended sentence was not an abuse of discretion), trans. denied.

Conclusion

The trial court did not abuse its discretion in imposing the entire nine-year previously-suspended sentence for Chandler's probation violation.

Affirmed.

DARDEN, J., and BAILEY, J., concur.