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FILED
Jul 10 2009, 9:14 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

ASHLEE L. MEDLIN	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 30A05-0902-CR-80
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HANCOCK SUPERIOR COURT
The Honorable Terry K. Snow, Judge
Cause No. 30D01-0703-FA-43

July 10, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Defendant Ashlee Medlin appeals from the trial court's order revoking her probation and reinstating two years of her six-year suspended sentence for Dealing in a Controlled Substance, a Class B Felony. Medlin contends that the trial court abused its discretion when it imposed a two-year sentence following the revocation of her probation without properly considering the mitigating circumstances she had proffered. We affirm.

FACTS AND PROCEDURAL HISTORY

On January 10, 2008, Medlin was sentenced pursuant to a plea agreement to eight years of incarceration with six years suspended to probation for dealing in a controlled substance, a Class B felony. On August 4, 2008, the State filed a request for a warrant for Medlin's arrest, on the grounds that she had violated the terms of her probation by testing positive on a drug screen. On October 15, 2008, Medlin admitted that she had violated the conditions of her probation by ingesting a controlled substance while on probation. The trial court revoked Medlin's probation and ordered that she be incarcerated for two years, followed by four years of probation. This appeal follows.

DISCUSSION AND DECISION

Medlin contends that the trial court abused its discretion when it revoked her probation without considering the mitigating circumstances she presented. Probation is a "'matter of grace'" and a "'conditional liberty that is a favor, not a right.'" *Marsh v. State*, 818 N.E.2d 143, 146 (Ind. Ct. App. 2004) (quoting *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999)). We review for an abuse of discretion the trial court's decision to revoke probation. *Rosa v. State*, 832 N.E.2d 1119, 1121 (Ind. Ct. App. 2005). Our standard of

review for abuse-of-discretion claims is well-settled. An abuse of discretion occurs if the decision is against the logic and effect of the facts and circumstances before the court. *Id.* We do not reweigh the evidence and will consider only the evidence most favorable to the trial court's decision. *Sanders v. State*, 825 N.E.2d 952, 954-955 (Ind. Ct. App. 2005). Even a probationer who admits the allegation must still be given an opportunity to offer mitigating evidence suggesting that the violation does not warrant revocation. *See Woods v. State*, 892 N.E2d 637, 640 (Ind. 2008). If the trial court finds that the person violated a condition of probation, it may order the execution of any part of the sentence that was suspended at the time of initial sentencing. *Stephens v. State*, 818 N.E.2d 936, 942 (Ind. 2004).

In this case, Medlin admitted that she took a controlled substance upon finding her boyfriend's dead body. Medlin contends however, that she ingested the drugs in an attempt to commit suicide following the shock of her boyfriend's death and that the trial court should have considered her mental condition a substantial mitigating factor. In making this argument, Medlin argues "that a defendant's diminished mental capacity at the time of the crime may be a valid mitigating factor, and a trial court's failure to consider clear evidence of a defendant's diminished capacity and find it to be a mitigating factor may be erroneous." *Young v. State*, 696 N.E.2d 386, 391-392 (Ind. 1998). Medlin is correct that a trial court should consider a probationer's mental health in a probation revocation proceeding. *Patterson v. State*, 659 N.E.2d 220, 223 (Ind. Ct. App. 1995).

Here, the record indicates that the trial court did in fact consider Medlin's mental condition at the time of her violation. In revoking Medlin's probation and imposing a two-year sentence, the trial court stated as follows:

> You're not a kid. You made the decision this time. You're not the first and you won't be the last to find somebody close to you that is dead. Your response is to use drugs…. But you got to start taking responsibility for your own acts…. So every time you do it, every time I'll send you away.

Tr.p.41.

This statement indicates that the trial court considered Medlin's proffered mitigating factor that she was under duress when she ingested the drugs, but it determined that Medlin's mental state was not a significant mitigating factor. The trial court was under no obligation to weigh or credit the mitigating factor as suggested by Medlin. *See Jones v. State*, 790 N.E.2d 536, 540 (Ind. Ct. App. 2003). We therefore conclude that the trial court acted within its discretion in imposing a two-year sentence following the revocation of Medlin's probation. *See id.* at 540 (providing that the trial court is under no obligation to grant a mitigating factor the same weight or credit as argued by the defendant).

The judgment of the trial court is affirmed.

CRONE, J., and BROWN, J., concur.