Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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FILED
Sep 09 2011, 9:13 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

RICHARD K. OREM,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 34A02-1106-CR-531
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HOWARD SUPERIOR COURT
The Honorable William C. Menges, Jr., Judge
Cause No. 34D01-0809-FD-693

September 9, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

If there were ever a case that proves the adage "be careful what you wish for," this is it. Appellant-defendant Richard K. Orem intentionally missed meetings with his probation officer so he could serve the remainder of his originally-suspended sentence for Strangulation, a class D felony, in jail. The trial court revoked Orem's probation and ordered him to serve the balance of the sentence in the Indiana Department of Correction (DOC). Orem now appeals.

FACTS

On September 25, 2008, Orem was charged with strangulation and domestic battery, a class A misdemeanor. Orem pleaded guilty to strangulation in exchange for the dismissal of the domestic battery charge. In July 2009, Orem was sentenced to three years of incarceration with 586 days executed, the remainder suspended to probation. As a condition of probation, Orem was required to periodically meet with his probation officer.

On February 7, 2011, the State filed a petition to revoke Orem's probation, alleging that he had failed to report to the probation department as directed. Orem admitted to the violation, and it was determined at the hearing that he had informed his probation officer that he wanted to spend the remainder of his probationary period in jail. Orem presented no evidence regarding a proper sentence that should be imposed. The trial court sentenced Orem to serve the balance of his suspended sentence in the DOC. Orem now appeals, claiming that the trial court should have ordered him to serve the remainder of the sentence on home detention.

DISCUSSION AND DECISION

In addressing Orem's contention that the trial court erred in ordering him to serve the remainder of the originally-suspended sentence in the DOC, we initially observe that a trial court may revoke a defendant's probation upon evidence of the violation of any single term of probation. Washington v. State, 758 N.E.2d 1014, 1017 (Ind. Ct. App. 2001). If there is substantial evidence of probative value to support the trial court's decision that the probationer is guilty of a violation, revocation is appropriate. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). The decision whether to revoke probation is a matter within the sound discretion of the trial court. Abernathy v. State, 852 N.E.2d 1016, 1020 (Ind. Ct. App. 2006).

Indiana Code section 35–38–2–3(g) provides that

> (g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may impose one (1) or more of the following sanctions:
>
> > (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 (1) year beyond the original probationary period.
> >
> > (3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

In this case, Orem does not dispute that he violated the terms of his probation and he makes no claim that the trial court failed to follow proper procedures at the revocation hearing. Tr. p 6-8. Moreover, as noted above, Orem had informed his probation officer that he intentionally missed the scheduled meetings because he desired to spend the remainder of the originally-suspended time in jail, rather than on probation. Id. at 6-7. Finally, while the trial court afforded Orem the opportunity to present additional evidence at the hearing regarding the sentence that should be imposed, he declined to do so. Id. at 12. In short, Orem has failed to show that the trial court abused its discretion in ordering him to serve the balance of his originally-suspended sentence in the DOC.

The judgment of the trial court is affirmed.

KIRSCH, J., and BROWN, J., concur.