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IN THE
COURT OF APPEALS OF INDIANA

RONNIE T. MILES,	)	
	)	
Appellant- Defendant,	)	
	)	
vs.	)	No. 02A03-0905-CR-196
	)	
STATE OF INDIANA,	)	
	)	
Appellee- Plaintiff,	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
The Honorable Robert J. Schmoll
Cause No. 02D04-0601-FC-20

October 1, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issues

Ronnie Miles appeals the trial court's revocation of his probation, raising as the sole issue for our review whether sufficient evidence supported revoking his probation. Concluding that sufficient evidence of probative value supports the finding that Miles had violated a term of his probation, we affirm.

Facts and Procedural History[1]

In 2006, Miles pled guilty to two counts of forgery, both Class C felonies, and was sentenced to concurrent terms of four years with two years suspended to probation on each count. Miles began serving his probation on August 10, 2007. As part of the terms and conditions of his probation, Miles was to behave well; not abuse alcohol or use drugs; and pay court costs, fine, and restitution of $900 and a public defender fee of $100 within the term of his probation. On December 23, 2008, the State filed a petition for revocation of probation alleging that Miles had failed to maintain good behavior by committing several offenses against his girlfriend, including battery, residential entry, criminal recklessness, criminal mischief, and interference with reporting a crime. The petition also alleged that Miles had failed to make any payments toward the fees and restitution he was ordered to pay.

[1] Miles' brief is not prepared in accordance with Indiana Appellate Rule 43(D) which specifies the acceptable font types and size for appellate briefs, nor is it prepared in accordance with Rule 46(A)(5) regarding the content of the Statement of Case. Moreover, Miles has unnecessarily reproduced in his appendix the entire transcript of the revocation hearing as well as the exhibits. The appellate rules provide that the appellant's appendix shall contain, *inter alia*, a "portion of the Transcript that contains the rationale of decision and any colloquy related thereto" and "any other short excerpts from the Record . . ., such as . . . brief portions of the Transcript, that are important to a consideration of the issues raised on appeal." Ind. Appellate Rule 50(b)(1)(b), (d) (emphasis added). We receive a copy of the complete Transcript and exhibits directly from the court reporter and do not need two full copies. Appellate Rule 50 "is meant to avoid unnecessary bloating of the appellate record and to streamline our review." Williams v. State, 895 N.E.2d 377, 379 n.2 (Ind. Ct. App. 2008).

At the revocation hearing, Miles' probation officer, the police officer who investigated the alleged crimes, the victim of the alleged crimes, and Miles testified. In addition, photographs of the alleged crime scene and a CD of telephone calls Miles made from jail to the victim were admitted into evidence. The testimony indicated that Miles was failing to fulfill his financial obligations, as he had not made any payments toward restitution in the eighteen months he had been on probation. The testimony further indicated that on December 14, 2008, Miles had entered the home of Tameisha Harrell, his ex-girlfriend, without her permission while she was not home and passed out on her bed because he had been drinking. Upon Tameisha's arrival home, the two argued and Miles refused to leave when she asked him to. Tameisha then got a knife from the kitchen, the two scuffled, and Tameisha's hand was cut. When Tameisha tried to use her cell phone to call the police, Miles destroyed the cell phone. Miles was eventually arrested. Tameisha did not fully corroborate the police report at the revocation hearing, but she did testify that Miles was in her home without her permission, they argued, she asked him to leave, and she thereafter went to the hospital with a cut on her hand. She also testified that Miles did not live with her or have a key to her house and she thought he might have gained access to the house through a broken window. Miles testified that he was drunk on the night of this incident, that he and Tameisha argued when she arrived home, and that he did not leave when she asked him to do so. At the time of the revocation hearing, Miles had not been charged with any crimes as a result of the December 14, 2008, incident. The trial court found that Miles had violated the terms of

his probation and ordered him to serve the two previously-suspended years of his sentence at the Indiana Department of Correction. Miles now appeals.

Discussion and Decision

I. Standard of Review

A probation hearing is civil in nature and the State need only prove the alleged violation by a preponderance of the evidence. Monroe v. State, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009). We consider the evidence most favorable to the judgment of the trial court without reweighing the evidence or judging the credibility of the witnesses. Id. Violation of a single condition of probation is sufficient to revoke probation. Brabandt v. State, 797 N.E.2d 855, 860 (Ind. Ct. App. 2003). If there is substantial evidence of probative value to support the trial court's decision that the defendant violated any terms of probation, we will affirm the revocation of probation. Id.

II. Basis for Revocation Decision

Miles contends that the trial court's revocation decision was unsupported by substantial evidence of probative value "to show that [he] committed the six specific offenses" listed in the revocation petition. Appellant's Brief at 6. The revocation petition alleged that Miles did not maintain good behavior during his probationary period by committing several offenses on December 14, 2008. The evidence most favorable to the judgment shows that on December 14, 2008, Miles was drunk, entered his ex-girlfriend's house without her permission, and did not leave when she asked him to. On the basis of this evidence, the trial court found that Miles had violated the terms of his probation that he behave well and not abuse alcohol.

When the alleged probation violation is bad behavior based on the commission of a new crime, the State need not show the probationer was convicted of the crime. Whatley v. State, 847 N.E.2d 1007, 1010 (Ind. Ct. App. 2006). Instead, the State only needs to show by a preponderance of the evidence that the probationer has engaged in unlawful activity. Brown v. State, 458 N.E.2d 245, 249 (Ind. Ct. App. 1983). The State's evidence at the revocation hearing demonstrates that Miles did not have a key to Tameisha's home, yet she found Miles passed out on her bed and a broken window in her bedroom when she arrived home on December 14, 2008. "A person who knowingly or intentionally breaks and enters the dwelling of another person commits residential entry, a class D felony." Ind. Code § 35-43-2-1.5. The State showed by a preponderance of the evidence that Miles engaged in unlawful conduct that meets the definition of the crime of residential entry.[2] See Thornton v. State, 792 N.E.2d 94, 99 (Ind. Ct. App. 2003) (holding that, in the appropriate case, trial court may properly revoke probation for commission of a crime even after the probationer has been acquitted of committing that same crime); Jackson v. State, 420 N.E.2d 1239, 1242 (Ind. Ct. App. 1981) (affirming revocation of probation for commission of a new crime where State met its preponderance burden even though probationer had been acquitted of the crime before the revocation hearing). Substantial evidence therefore supports the trial court's finding

[2] Because a single violation of probation is sufficient to support revocation, Brabandt, 797 N.E.2d at 860, we need not analyze whether there is probable cause to believe Miles committed any other criminal offenses on December 14, 2008.

that Miles violated the term of his probation requiring that he maintain good behavior.

Conclusion

The judgment of the trial court revoking Miles' probation is affirmed.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.