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IN THE
COURT OF APPEALS OF INDIANA

STACY L. ADAMS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0903-CR-248
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven R. Eichholtz, Judge
Cause No. 49G23-0710-FB-220272

October 8, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Stacy L. Adams ("Adams") appeals an order revoking his community corrections placement and committing him to the Indiana Department of Correction ("the DOC") to serve the remainder of his sentence for Possession of Cocaine, a Class B felony.[1] Adams requests sentencing review and revision pursuant to Indiana Appellate Rule 7(B), which remedy is not applicable here. We affirm.

Facts and Procedural History

On October 16, 2008, Adams pled guilty to Possession of Cocaine and was sentenced to six years imprisonment. He was then placed at Duvall Center, a work release facility of Marion County Community Corrections. On the morning of February 11, 2009, Adams left the Duvall Center to go to Labor Ready, a temporary employment agency. That afternoon, a Duvall Center employee called Labor Ready to verify Adams' whereabouts, but was told that Adams was not at work.

On February 12, 2009, the State filed a Notice of Violation of Community Corrections Rules, alleging that Adams was not at work on February 11, 2009, and had not timely reported back to the Duvall Center. It was also alleged that Adams was $1,605.25 in arrears in payment of his probationary fees.

On February 19, 2009, the trial court conducted a hearing at which Adams admitted that he was absent from the Duvall Center on February 11, 2009, but was not working. Adams testified that he went home to care for his invalid wife while her primary caregiver

[1] Ind. Code § 35-48-4-6.

attended to a personal emergency. The trial court revoked Adams' placement at Duvall Center and ordered him to serve the remainder of his sentence in the DOC. He now appeals.

Discussion and Decision

Community corrections is "a program consisting of residential and work release, electronic monitoring, day treatment, or day reporting[.]" Ind. Code § 35-38-2.6-2. A defendant is not entitled to serve a sentence in either probation or a community corrections program; rather, such placement is a "matter of grace" and a "conditional liberty that is a favor, not a right." Million v. State, 646 N.E.2d 998, 1002 (Ind. Ct. App. 1995). If a defendant violates the terms of his placement in community corrections, the court may:

> (1) Change the terms of the placement.
> (2) Continue the placement.
> (3) Revoke the placement and commit the person to the department of correction for the remainder of the person's sentence.

Ind. Code § 35-38-2.6-5.

Adams asserts that the change from work release placement to prison is inappropriate in light of the nature of his offense and his character and thus warrants appellate review and revision under Indiana Appellate Rule 7(B). Rule 7(B) authorizes appellate review and revision of "a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender."

In the context of probation revocation, our supreme court has determined that the Rule 7(B) standard "is not the correct standard to apply when reviewing a trial court's actions"

because the action "is not a criminal sentence as contemplated by the rule." Jones v. State, 885 N.E.2d 1286, 1290 (Ind. 2008). Like probation, a community corrections program serves as an alternative to commitment to the DOC, at the sole discretion of the trial court. Monroe v. State, 899 N.E.2d 688, 691 (Ind. Ct. App. 2009). As in the probation context, a community corrections revocation hearing is civil in nature. Decker v. State, 704 N.E.2d 1101, 1104 (Ind. Ct. App. 1999). Community corrections revocation proceedings are "based upon violations of community corrections rules rather than upon the commission of a crime[.]" McQueen v. State, 862 N.E.2d 1237, 1244 (Ind. Ct. App. 2007). Accordingly, the revocation of a community corrections placement is not equivalent to the imposition of a criminal sentence. Appellate Rule 7(B), governing the review of criminal sentences, is not applicable to community corrections revocation decisions.

Affirmed.

VAIDIK, J., and BRADFORD, J., concur.