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FILED
Oct 14 2009, 9:06 am
CLERK
of the supreme court, court of appeals and tax court

ATTORNEY FOR APPELLANT:

MARY SPEARS
Gilroy & Kammen
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

NICOLE DONGIEUX WIGGINS
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

JOSEPH FAIRROW,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0904-CR-356
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark Rogers, Judge
Cause No. 49G17-0711-FD-234480

October 14, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Joseph Fairrow appeals the revocation of his probation. We affirm.

Issues

Fairrow presents two issues, which we restate as:

I. Whether the evidence was sufficient to support the revocation of his probation; and

II. Whether the trial court provided a sufficient written statement of revocation to satisfy due process.

Facts and Procedural History

The relevant facts indicate that on December 12, 2007, Fairrow pled guilty to class D felony domestic battery. The trial court placed Fairrow on probation for 463 days. As a condition of his probation, Fairrow was ordered, among other things, to report to the drug lab for random urine screens.[1] Additionally, Fairrow was ordered to pay restitution to his victim as well as other fees and costs according to a payment plan through the probation department. The State filed multiple notices of probation violation between January of 2008 and February of 2009, which culminated in a probation revocation hearing held on March 6, 2009. During that hearing, Fairrow admitted that he had failed to report to the drug lab by calling the drug line on at least two occasions and also admitted that he had failed to fully comply with his financial obligations of probation. At the conclusion of the hearing, the trial court revoked

[1] Fairrow was required to report to the drug lab by calling the "drug lab line," which generates a written history to track whether a defendant is in compliance with reporting requirements. Appellant's App. at 50.

Fairrow's probation.

Discussion and Decision

I. Sufficiency of the Evidence

On appeal, Fairrow first asserts that there was insufficient evidence to establish that he violated any term of his probation. We disagree.

A probation revocation hearing is in the nature of a civil proceeding and, therefore, a violation need only be proven by a preponderance of the evidence. *Washington v. State*, 758 N.E.2d 1014, 1017 (Ind. Ct. App. 2001). A trial court may revoke a person's probation upon evidence of the violation of any single term of probation. *Id*. When reviewing an appeal from the revocation of probation, we consider only the evidence most favorable to the judgment, and we will not reweigh the evidence or judge the credibility of the witnesses. *Sanders v. State*, 825 N.E.2d 952, 954-55 (Ind. Ct. App. 2005), *trans. denied*.

Fairrow concedes that, during the revocation hearing, he did admit to his failure to call the drug line on at least two occasions. Nevertheless, he argues that, because the court had granted him permission to travel out-of-state for work while on probation, he could not realistically have been expected to continue with those reporting requirements. The record reveals that the trial court granted Fairrow permission to travel so long as Fairrow stayed "in compliance with probation." Appellant's App. at 62. Contrary to Fairrow's argument, there is absolutely no indication that the trial court modified the terms of his probation or in any way relieved him of his duty to report. The terms of probation remained clear and unambiguous. In addition, Fairrow admitted that he had not satisfied his financial

obligations of probation. Our review indicates that the trial court gave Fairrow the opportunity to present evidence regarding his violations and determined that revocation was warranted based on his admission of the State's allegations. The evidence was sufficient to support the revocation of Fairrow's probation.

II. Written Statement of Revocation

Fairrow next claims that he was denied due process because the trial court failed to issue written findings detailing the evidence upon which it relied and its reasons for revoking his probation. Again, we must disagree.

Probation revocation implicates a defendant's liberty interest, which entitles him to some procedural due process. *Sanders*, 825 N.E.2d at 955. The minimum requirements of procedural due process in the context of probation revocation proceedings include written notice of the claimed violations of probation, disclosure to the probationer of the evidence against him, the opportunity to be heard in person and to present witnesses and documentary evidence, the right to confront and cross-examine adverse witnesses, the right to a neutral and detached hearing body, and a written statement by the fact finder as to the evidence relied upon and the reasons for revoking probation. *Washington*, 758 N.E.2d at 1017; *see also* Ind. Code § 35-38-2-3. The written statement requirement may be satisfied by placement of the transcript of the evidentiary hearing in the record if the transcript contains a clear statement of the trial court's reasons for revoking probation. *Washington*, 758 N.E.2d at 1018.

The transcript of the instant revocation hearing has been placed in the record and clearly discloses that the trial court revoked Fairrow's probation due to his admission that he

committed the violations alleged by the State. Because the transcript sufficiently establishes the evidence relied upon by the trial court in revoking Fairrow's probation, it satisfies due process. Moreover, we have held that when a defendant admits violations of probation, it is unnecessary for the trial court to issue written findings so long as the defendant is given an opportunity to offer mitigating evidence suggesting that the violation does not warrant revocation. *Terrell v. State*, 886 N.E.2d 98, 101 (Ind. Ct. App. 2008), *trans. denied*. Fairrow was given this opportunity. He has shown no error.

Affirmed.

MAY, J., and BROWN, J., concur