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**IN THE
COURT OF APPEALS OF INDIANA**

CHRISTOPHER DAVIES,
Appellant- Defendant,

vs.

STATE OF INDIANA,
Appellee- Plaintiff,

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No. 34A05-1103-CR-136

APPEAL FROM THE HOWARD SUPERIOR COURT
The Honorable William C. Menges, Jr., Judge
Cause No. 34D01-0703-FC-184

October 19, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Chief Judge

Case Summary and Issue

In 2008, Christopher Davies pleaded guilty to dealing in a look-a-like substance, a Class D felony, and the trial court sentenced him to three years with eighteen months suspended to probation. After Davies twice violated the conditions of his probation, the trial court sentenced Davies to serve the eighteen-month balance of his suspended sentence. Davies raises one issue for our review: whether the trial court abused its discretion in sentencing Davies to the balance of his suspended sentence. Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

In July of 2008, Davies pleaded guilty to dealing in a look-a-like substance, and the trial court sentenced him to three years at the Indiana Department of Correction (“DOC”), eighteen months of which were suspended to probation. Davies violated the conditions of his probation by being convicted of trespass, a Class A misdemeanor; being arrested for auto theft, receiving stolen property, a D felony, and for unauthorized entry of a vehicle, a Class A misdemeanor; failing a urine drug screen by testing positive for THC and cocaine; and being discharged from a required program for poor attendance, continued disruptions, and failing a urine drug screen. After the State filed a petition to revoke Davies’ suspended sentence, Davies entered a plea of true and the trial court extended his supervised probation by an additional year.

Davies then violated the conditions of his probation a second time by failing to report to the probation department as required, and the State filed its second petition to revoke Davies’ suspended sentence. Davies entered a plea of true, and the trial court

sentenced Davies to serve the eighteen-month balance of his suspended sentence in the DOC. Davies now appeals.

Discussion and Decision

I. Standard of Review

The decision to revoke probation is within the sole discretion of the trial court. And its decision is reviewed on appeal for abuse of that discretion. On review, we consider only the evidence most favorable to the judgment without reweighing that evidence or judging the credibility of the witnesses. If there is substantial evidence of probative value to support the trial court's decision that a defendant has violated any terms of probation, the reviewing court will affirm its decision to revoke probation.

Woods v. State, 892 N.E.2d 637, 639-40 (Ind. 2008) (quotations and citations omitted).

II. Davies' Probation Violations

Davies argues the trial court abused its discretion because it "failed to explain why it believed having Davies execute the balance of his suspended sentence met the court's concerns for rehabilitation." Appellants [sic] Brief at 3. We agree with Davies' assertion that during initial sentencing the primary consideration of the trial court is rehabilitation. See Hardebeck v. State, 656 N.E.2d 486, 490 (Ind. Ct. App. 1995) (citing Ind. Const. art. I, § 18 and Abercrombie v. State, 275 Ind. 407, 415, 417 N.E.2d 316, 320 (1981)), trans. denied. However, probation is a conditional liberty that is granted as a favor, not as a right. Baker v. State, 894 N.E.2d 594, 597 (Ind. Ct. App. 2008) (citing Gardner v. State, 678 N.E.2d 398, 401 (Ind. Ct. App. 2008)). Further, a trial court may revoke a person'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); see also Ind. Code § 35-38-2-3(g)(3) (giving the trial court the option to order execution of all or part of a sentence that was suspended at the time of initial sentencing upon when the defendant violates a condition

of the sentence); Berry v. State, 904 N.E.2d 365, 366 (Ind. Ct. App. 2009) (concluding a trial court is not required to issue a sentencing statement when ordering a defendant to serve a portion of the remainder of his sentence after the revocation of his probation).

Davies does not deny he violated the terms of his probation. Instead, he argues the trial court should have given more consideration to his potential for rehabilitation. We conclude substantial evidence of probative value exists that Davies violated the terms of his probation multiple times, amply justifying the trial court's decision to revoke his entire suspended sentence.

Conclusion

Concluding substantial evidence of probative value exists that Davies violated the terms of his probation, we affirm the trial court's decision to revoke his suspended sentence.

Affirmed.

BARNES, J., and BRADFORD, J., concur.