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ATTORNEY FOR APPELLANT:

LAURA M. TAYLOR
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

ANGELA N. SANCHEZ
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

DOROTHY SINCLAIR,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0905-CR-380
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Patricia Gifford, Judge
Cause No. 49G03-0811_FB-262415

December 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Dorothy Sinclair appeals the revocation of her probation and the imposition of her previously suspended sentence. We affirm.

FACTS AND PROCEDURAL HISTORY

On January 23, 2009, Sinclair pled guilty to Class C felony sexual misconduct with a minor in exchange for dismissal of a charge of Class B felony sexual misconduct with a minor. She was sentenced to three years, with 961 days suspended to probation. Her plea agreement provided she would comply with all standard conditions of probation as well as conditions for sex offenders. A separate order spelled out those conditions. Among these conditions were the requirements to maintain a single, verifiable address in Marion County; to refrain from use of alcohol and controlled substances; and to submit to drug tests. Sinclair signed this order, indicating that she had read the conditions and agreed to comply with them.

On January 27, February 12, and February 18, Sinclair submitted urine samples that tested positive for cocaine. On February 23, a notice of probation violations was filed, and a warrant was issued for her arrest. Officers attempted to execute the warrant at 1401 N. Belleview Place, which was Sinclair's registered address. The officers spoke to James Bailey, who informed them that Sinclair did not live there. On February 25, the notice of probation violations was amended to include allegations that Sinclair had not maintained a single, verifiable address and had not maintained accurate information on the Indiana Sex Offender Registry. Sinclair learned there was a warrant for her arrest and turned herself in.

A contested hearing was held on April 2. Christian Carlisle, a probation officer who supervises sex offenders, testified Sinclair first reported to probation on February 2 and was given a general overview of the conditions of probation. On February 12, she reported to her supervising probation officer, who explained the conditions in detail. Carlisle testified her conditions included refraining from drug use, submitting to drug tests, registering as a sex offender, and providing her address. He identified State's Exhibit 1 as a registration form Sinclair submitted to the IMPD Registration Office. On this form, she listed her address as 1401 N. Belleview Place. Carlisle testified officers had attempted to arrest Sinclair at that address, but Bailey told them she did not live there. Carlisle acknowledged Sinclair had told her probation officer that she was looking for a new place to live.

Bailey testified he has lived at 1401 N. Belleview Place for thirty-eight years. He knows Sinclair because she used to live in his neighborhood. Bailey testified that, from the time she started probation, Sinclair has never lived at his house or stayed there overnight. He claimed the last time he had seen Sinclair was four or five months before the hearing.

Susan Atha, the director of the probation drug testing lab, described the procedure for collecting and testing urine samples. She identified State's Exhibits 2, 3, and 4 as the results of Sinclair's drug tests. All three were positive for cocaine.

Sinclair testified in her own behalf. She admitted she had used cocaine while on probation, that her drug tests were positive, and she knew this was a violation of her

conditions of probation. She testified she had made arrangements to begin drug treatment, but was not able to begin before the warrant for her arrest was issued.

Sinclair also acknowledged that maintaining a single, verifiable address was one of the conditions of her probation. However, she claimed she had lived with Bailey from the time she was released from the Marion County Jail. She testified her clothing was at Bailey's house. She claimed her mother had sent a package of her clothes to Bailey, and Bailey had signed for the package. She suggested Bailey had a motive to lie because they had previously been involved in a violent relationship, and she had filed a police report about it. Sinclair testified she told her probation officer she was looking for a new place to live. She testified she had made arrangements to live with her son, and that was where she would go if released.

The trial court found Sinclair had violated the conditions of her probation, but did not specify which allegations had been proven. The probation department recommended that Sinclair's probation be revoked and that she be ordered to serve 961 days in the Department of Correction. The trial court adopted this recommendation and gave Sinclair credit for time served.

DISCUSSION AND DECISION

Sinclair argues there was insufficient evidence she violated the conditions of her probation. A probation revocation hearing is civil in nature; therefore, the State need only prove the alleged violations by a preponderance of the evidence. *Podlusky v. State*, 839 N.E.2d 198, 200 (Ind. Ct. App. 2005). When reviewing the sufficiency of evidence,

we consider only the evidence favorable to the judgment, and we do not reweigh the evidence or judge the credibility of witnesses. *Id*.

Sinclair first argues the State did not prove what her conditions of probation were, and therefore, could not have proven that she violated any condition. The order setting Sinclair's conditions of probation was not admitted as an exhibit; however, both Carlisle and Sinclair testified Sinclair was required to refrain from drug use and maintain a single, verifiable address. Therefore, there was no dispute that Sinclair was subject to these conditions.

Sinclair makes no additional argument in regard to the drug-related allegations. In fact, she admitted at the hearing that she had used cocaine while on probation.

The allegations that Sinclair did not maintain a single, verifiable address and did not maintain accurate information with the sex offender registry appear to both be based on the evidence that she did not live at her registered address.[1] The allegations are supported by the record. Carlisle testified officers did not find Sinclair at her registered address when they went to arrest her. Bailey testified Sinclair had never lived there and had never spent the night there. He further testified he had not seen Sinclair for at least four months. Sinclair suggested a possible motive for Bailey to lie, but he denied that they were in a relationship and that she had filed a police report about him. Sinclair is asking us to reweigh the evidence, which we will not do. *See id*. There is sufficient evidence Sinclair violated the conditions of her probation.

[1] There is no reference in the record to any other registry information being inaccurate.

Sinclair also argues the trial court abused its discretion by ordering her to serve the entirety of her previously suspended sentence. When a trial court finds a person has violated a condition of probation, the trial court may continue the person on probation, extend the probationary period, or order execution of all or part of the sentence that was originally suspended. Ind. Code § 35-38-2-3(g). We review for abuse of discretion the trial court's sentencing decision in a probation revocation proceeding. *Podlusky*, 839 N.E.2d at 200.

Sinclair committed four distinct probation violations within the first two months of her probation. We cannot agree with Sinclair's characterization of these violations as "not serious." (Appellant's Br. at 8.) According to Bailey, whose testimony the trial court must have credited, Sinclair never lived at her registered address. An inaccurate address substantially undermines the purpose and effectiveness of the sex offender registry. Therefore, we conclude the trial court did not abuse its discretion.

Affirmed.

CRONE, J., and BROWN, J., concur.