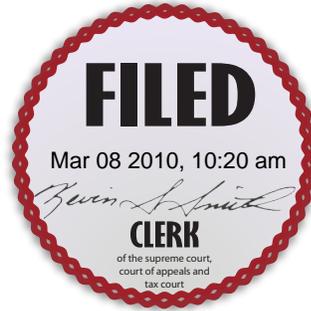


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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CHRISTOPHER A. WILSON,  
Appellant-Respondent,

vs.

STATE OF INDIANA,  
Appellee-Petitioner.

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No. 18A05-0908-CR-492

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APPEAL FROM THE DELAWARE CIRCUIT COURT NO. 1  
The Honorable Marianne Vorhees, Judge  
Cause No. 18C01-0503-FB-6

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**March 8, 2010**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**RILEY, Judge**

## STATEMENT OF THE CASE

Appellant-Respondent, Christopher A. Wilson (Wilson), appeals the sentence imposed by the trial court after the court revoked his probation.

We affirm.

## ISSUE

Wilson raises one issue on appeal, which we restate as follows: Whether the trial court abused its discretion when it ordered him to serve the eight remaining years of his original sentence at the Indiana Department of Correction after revoking his probation.

## FACTS AND PROCEDURAL HISTORY

On March 3, 2006, the State filed an Information charging Wilson with Count I, burglary as a Class B felony, Ind. Code § 35-43-2-1; Count II, theft, as a Class D felony, I.C. § 35-43-4-2(a); Count III, possession of a narcotic, as a Class D felony, I.C. § 35-48-4-6(a); and Count IV, receiving stolen property as a Class D felony, I.C. § 35-43-4-2(b). On March 26, 2006, Wilson entered into a plea agreement with the State in which he agreed to plead guilty to burglary, as a Class B felony in exchange for the State dismissing the other charges. The trial court sentenced him to ten years, with two years served on electronic house arrest and eight years served on supervised probation.

On August 2, 2006, the State filed a petition to revoke Wilson's home detention alleging that Wilson committed escape from Randolph County home detention program and had two positive alcohol tests. On August 17, 2006, Wilson confessed to two alcohol violations. On November 14, 2006, at Wilson's request, the trial court agreed to have Wilson

evaluated by a local treatment facility. The treatment facility accepted him in their program. On April 26, 2007, upon successful completion of the treatment, the trial court returned Wilson to electronic home detention. On July 17, 2008, Wilson filed a petition for review hearing requesting release from electronic home detention. On August 1, 2008, the trial court granted this request and placed him on supervised probation for eight years.

On February 12, 2009, the State filed a petition to revoke Wilson's probation. The petition claimed that he had committed new offenses under two different cause numbers. In Cause No. 18C04-0902-FD-10, the State alleged that Wilson had committed two counts of identity deception, as Class D felonies, one count of criminal mischief, as a Class A misdemeanor, and one count of cruelty to animals, as a Class A misdemeanor. In Cause No. 18H01-0909-CM-2571, the State alleged that he had committed one count of driving while suspended with a prior, as a Class A misdemeanor and one count of possession of marijuana, as a Class A misdemeanor. In the petition, the State also noted that on October 11, 2006, Wilson had pled guilty to one count of operating a vehicle while intoxicated, as a Class A misdemeanor and possession of marijuana, as a Class A misdemeanor.

On June 24, 2009, the trial court entered Wilson's admission that he had violated the terms of his supervised probation by committing two Class A misdemeanors: criminal mischief and cruelty to animals. On August 5, 2009, the trial court revoked his supervised probation and ordered an executed sentence of eight years.

Wilson now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

Wilson contends that “the order of the full eight year execution of sentence, under the circumstances of this case, was inappropriate in light of the nature of the offense and the character of the offender.” (Appellant’s Br. p. 1). Insofar as Wilson now attempts to have Appellate Rule 7(B) applied to the trial court’s revocation of probation, this argument is misplaced. The appellate evaluation of whether a trial court’s sanctions are inappropriate in light of the nature of the offense and the character of the offender is not the correct standard to apply when reviewing a trial court’s action in a post-sentence probation violation proceeding. *Jones v. State*, 885 N.E.2d 1286, 1290 (Ind. 2008). A trial court’s action in a post-sentence probation violation proceeding is not a criminal sentence as contemplated by the rule. *Id.* The review and revise remedy of Indiana Appellate Rule 7(B) is not available. *Id.*

Wilson does not dispute the imposition of a sentence; rather he challenges the sentence to the extent that the trial court imposed an eight year executed sentence as opposed to electronic home detention. 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. I.C. § 35-38-2-3(g). We review a sentencing decision in a probation revocation proceeding for abuse of discretion. *Peterson v. State*, 909 N.E.2d 494, 499 (Ind. Ct. App. 2009).

Here, we do not consider the imposition of the executed sentence to be an abuse of discretion. After the State filed its initial petition to revoke Wilson’s home detention, Wilson

admitted to two alcohol violations. At that time, the trial court showed leniency by granting Wilson's request to be admitted to a treatment facility instead of imposing an executed sentence. After a successful program, the trial court again placed him on supervised probation for eight years. Within a few months of being released to supervised probation, Wilson was charged with at least seven new charges in two separate causes. The State filed a second petition to revoke his probation and Wilson admitted to the violation.

By originally ordering Wilson to serve his ten year sentence on home detention and probation rather than in the Indiana Department of Correction, by permitting Wilson to seek substance abuse treatment when he first violated the terms of his home detention, and by placing him on supervised probation earlier than scheduled due to his successful treatment, the trial court offered Wilson three opportunities for rehabilitation. Instead of taking advantage of the trial court's compassion, he incurred several new charges within a couple of months of his release to probation. By his re-offending, Wilson indicates that he has no interest in living a law-abiding life and instead continues onto the path of crime. We find the trial court's sentence to be within its discretion.

#### CONCLUSION

Based on the foregoing, we conclude that the trial court did not abuse its discretion when it ordered him to serve the eight remaining years of his original sentence at the Department of Correction after revoking his probation.

Affirmed.

VAIDIK, J., and CRONE, J., concur.