



## **Case Summary**

Laundle Black appeals the trial court's order directing him to serve the entirety of his previously-suspended sentence after he admitted to violating his probation. We affirm.

### **Issue**

The sole issue is whether the trial court abused its discretion in ordering Black to serve the entirety of his previously-suspended sentence.

### **Facts**

On November 17, 2000, the State charged Black with Class B felony attempted arson and alleged that he was an habitual offender. On August 31, 2001, Black pled guilty to Class B felony attempted arson, and the State agreed to dismiss the habitual offender allegation. On October 22, 2001, the trial court sentenced Black to a term of twenty years, with sixteen executed and four years suspended to probation. The trial court also permitted Black to serve his sentence in the Grant County Jail rather than the Department of Correction.

On February 1, 2008, the trial court granted Black's motion for modification of his sentence, allowing him to enter a community transition program. On January 30, 2009, however, the trial court terminated Black's participation in the program because of his repeated violation of program rules.

Black's probationary period began on June 20, 2008. Among other terms of probation, Black could not commit any new criminal offense and could not consume

alcohol. On January 29, 2009, the State filed a petition seeking to revoke Black's probation, alleging that on January 25, 2009, he had committed the offense of operating a vehicle with a blood alcohol content exceeding .15% in Grant County. The State later filed an addendum to the petition to revoke, alleging that on April 22, 2009, he was convicted of the offenses of operating while intoxicated and driving while suspended in Madison County. At the probation revocation hearing on July 31, 2009, Black admitted that he had been convicted of all these offenses. The trial court revoked Black's probation and ordered him to serve the previously-suspended four-year portion of his sentence. Black now appeals.

### **Analysis**

“Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” Prewitt v. State, 878 N.E.2d 184, 188 (Ind. 2007). “The trial court determines the conditions of probation and may revoke probation if the conditions are violated.” Id. (citing Ind. Code § 35-38-2-3). A trial court's sentencing decisions for probation violations are reviewable using the abuse of discretion standard. Id. “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances.” Id. Upon the revocation of probation, the trial court may: (1) continue the person on probation, with or without modifying or enlarging the conditions; (2) extend the person's probationary period for not more than one year beyond the original probationary period; and (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing. I.C. § 35-38-2-3(g).

We do not find any abuse of discretion in the trial court's ordering execution of the full amount of Black's previously-suspended sentence. The trial court exercised considerable leniency toward Black by suspending a portion of his sentence in the first place and later modifying his sentence to permit his participation in a community transition program. Black was fortunate to receive such leniency, given his criminal history. Beginning in 1983 and before his current conviction, he amassed nineteen convictions for various felony and misdemeanor offenses, ranging from numerous battery charges to theft, forgery, conversion, and residential entry. He also violated probation on at least six occasions prior to the present violation.

Clearly, Black's nearly constant interaction with the criminal justice system for over two decades was not enough to dissuade him from forgoing yet another opportunity to prove that he might be able to conform his behavior to the law's requirements. Not only did Black commit three new offenses just months into his probationary period, two of which also violated a prohibition on consuming alcohol, but his successful petition to be placed in the community transition program was nullified because of his repeated failure to follow the program rules. To the extent Black contends the executed sentence will pose a hardship to his children, we cannot say that any such hardship outweighs Black's apparent disdain for the law and inability to refrain from criminal conduct for any length of time. Cf. Dowdell v. State, 720 N.E.2d 1146, 1154 (Ind. 1999) (noting that many criminal defendants have children and that absent "special circumstances," trial

courts are not required to find as mitigating that imprisonment will result in undue hardship to children).

### **Conclusion**

The trial court did not abuse its discretion in ordering Black to serve the entirety of his previously-suspended sentence after he admitted to violating his probation. We affirm.

Affirmed.

BAILEY, J., and MAY, J., concur.