

STATEMENT OF THE CASE

Toby Mullis appeals the trial court's revocation of his probation. He presents three issues for our review:

1. Whether the trial court correctly calculated his pre-trial credit time.
2. Whether the court abused its discretion when it revoked his probation and imposed his suspended sentence.
3. Whether the court violated Mullis's due process rights.

We affirm and remand for a written probation revocation statement.

FACTS AND PROCEDURAL HISTORY

On April 3, 2002, the State charged Mullis with Operating a Vehicle While Intoxicated, both as a Class A misdemeanor and, also, as a Class D felony on the allegation of a prior conviction. On the day of trial, June 4, 2004, Mullis pleaded guilty to the Class D felony charge. The trial court sentenced Mullis to one-and-one-half years with one year suspended and ordered Mullis to appear at the Bartholomew County Jail on October 30 to serve the executed portion of his sentence. The court also placed Mullis on probation at sentencing.

On September 29, 2004, the probation department filed its first Verified Petition to Revoke Probation alleging that Mullis violated his probation by failing to report, and the court issued a bench warrant. Mullis admitted to the violation at a subsequent hearing, but he did not report to the probation department for drug screening later that same day as ordered. He also failed to appear at his dispositional hearing on March 7, 2005. On July 12, the probation department filed its second Verified Petition to Revoke Probation. Eventually, the court issued another warrant, but on March 29, 2006, an officer with the

Edinburgh Police Department arrested Mullis in Johnson County. Johnson County officials charged Mullis with a crime unrelated to the charges he faced in Bartholomew County, and he also faced a new charge in Bartholomew County.

On October 23, the court held a dispositional hearing, and Mullis again admitted that he violated the conditions of his probation. The court ordered Mullis to serve the suspended portion of his sentence. Also, at that hearing, Mullis argued that he should receive pre-trial detention credit time on this case for his time served in the Johnson County Jail, but the court gave Mullis credit for only ninety-one days actually served.

On November 13, Mullis filed both his Notice of Appeal and his Petition for Pre-Trial Credit Time. In his Petition, Mullis requested credit for the days from March 29, 2006, through October 23, 2006. The trial clerk filed her Notice of Completion of Clerk's Record on November 16. On December 5, 2006, the court granted Mullis' credit time request and amended Mullis's Abstract of Judgment to reflect 208 additional days of credit time. This appeal ensued.

DISCUSSION AND DECISION

Issue One: Pre-Trial Credit Calculation

Mullis argues that the trial court "misappropriated twenty-five (25) days of Mullis' term of incarceration." Appellant's Brief at 6. But we are without jurisdiction to review this issue. Mullis filed his Notice of Appeal and his Petition for Pre-Trial Credit time on the same day, November 13, 2006. In his Notice of Appeal, he states that the judgment he is appealing is "Fact finding and Disposition Judgment entered on October 23, 2006." Appellant's App. at 23. We obtained jurisdiction over his appeal on November 16, 2006,

when the trial court clerk issued its Notice of Completion of Clerk's Record. Ind. Appellate Rule 8. The trial court, however, retained jurisdiction to rule on Mullis' petition as a matter "unrelated to the judgment being appealed" and granted Mullis' request on December 5, 2006. See Inlow v. Henderson, Daily, Withrow & Devoe, 804 N.E.2d 833, 838 (Ind. Ct. App. 2004), trans. denied. Mullis did not amend his Notice of Appeal to include this issue, and thus, we cannot review this claim.¹

Issue Two: Probation Revocation and Sentence

Mullis contends that the trial court abused its discretion by revoking his probation and imposing the suspended portion of his sentence. We review a trial court's decisions to revoke probation and impose a sentence for an abuse of discretion. Abernathy v. State, 852 N.E.2d 1016, 1020 (Ind. Ct. App. 2006). The trial court abuses its discretion if its decision is against the logic and effect of the facts and circumstances before the court. Id. Here, Mullis admitted that he violated the conditions of his probation. When a defendant admits to a probation violation, the State is relieved of its burden of proof. Parker v. State, 676 N.E.2d 1083, 1086 (Ind. Ct. App. 1997). Generally, "violation of a single condition of probation is sufficient to revoke probation." Pittman v. State, 749 N.E.2d 557, 559 (Ind. Ct. App. 2001), trans. denied.

Nonetheless, the court must still determine whether revocation is the appropriate disposition. Cox v. State, 850 N.E.2d 485, 488 (Ind. Ct. App. 2006). In making such a determination, the trial court must afford the probationer an opportunity to present

¹ Mullis' argument on appeal is also not subject to appellate review because the trial court awarded the credit time he requested. Mullis invited any error related to his credit time calculation. See Pinkton v. State, 786 N.E.2d 796, 798 (Ind. Ct. App. 2003), trans. denied.

evidence that explains and mitigates his violation. Id. Here, the court afforded Mullis the opportunity to present such evidence. He testified that: he had no excuse for violating his probation conditions; he worked prior to his arrest; he had children that he financially supported; and he would like credit time for the days he served in the Johnson County Jail. Based on this record, we cannot conclude that the trial court abused its discretion when it revoked Mullis's probation.

Further, as the State argues, Mullis's sentencing issue is moot. When we cannot provide relief upon an issue, the issue is deemed moot, and we will not reverse the trial court's determination "where absolutely no change in the status quo will result." Jones v. State, 847 N.E.2d 190, 200 (Ind. Ct. App. 2006) (quoting In re Utley, 565 N.E.2d 1152, 1154 (Ind. Ct. App. 1991)). Once "sentence has been served, the issue of the validity of the sentence is rendered moot." Lee v. State, 816 N.E.2d 35, 40 (Ind. 2004) (citing Irwin v. State, 744 N.E.2d 565, 568 (Ind. Ct. App. 2001)). Because Mullis completed his sentence, any issue regarding that sentence is moot.

Issue Three: Due Process Claim

Finally, Mullis argues that the trial court violated his right to due process when it did not issue a written detailed statement supporting his probation revocation. Due process requires a written statement by the fact finder regarding the evidence relied upon and the reasons for the revocation of probation. Washington v. State, 758 N.E.2d 1014, 1018 (Ind. Ct. App. 2001). Although this requirement may be satisfied by placement of the transcript of the evidentiary hearing in the record, it does so only if the transcript contains a clear statement of the trial court's reasons for revoking probation. Id. The

transcript of the revocation hearing has been placed in the record, but the trial court does not state the reasons it revoked Mullis's probation. In such circumstances, the appropriate remedy is a remand for a written probation revocation statement. Medicus v. State, 664 N.E.2d 1163, 1165 (Ind. 1996). This cause hereby is remanded to the trial court for a probation revocation statement consistent with this opinion.

Affirmed and remanded for a written statement on the probation revocation.

RILEY, J., and BARNES, J., concur.