



William Pearson argues the trial court abused its discretion in revoking all twenty-three years of his suspended sentence as a result of his probation violation. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On August 17, 1994, Pearson agreed to plead guilty to burglary, a Class A felony,<sup>1</sup> aggravated battery, a Class B felony,<sup>2</sup> and robbery, a Class A felony.<sup>3</sup> These charges stemmed from an incident in which Pearson attacked his estranged wife and his mother-in-law. In the midst of this attack, Pearson hit his mother-in-law so hard that he thought he had killed her. The plea agreement provided Pearson would be sentenced to forty-five years for the burglary and robbery convictions, with twenty-five years suspended to probation. The trial court also imposed a sentence of twenty years for the aggravated battery. The court ordered those sentences served concurrently, but consecutive to sentences imposed in other proceedings. Pearson was released to probation on June 18, 2001.

On July 20, 2006, the State filed a petition to revoke Pearson's probation because he did not provide his probation officer with information regarding his employment or education, did not support his dependents, and did not report to his probation officer for a hearing after being instructed to do so. On April 11, 2008, Pearson and the State entered into a plea agreement regarding the revocation of his probation. The court found Pearson violated his probation by failing to support his dependents, then ordered Pearson to serve two of the previously suspended twenty-three years. Sometime later Pearson returned to

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<sup>1</sup> Ind. Code § 35-43-2-1.

<sup>2</sup> Ind. Code § 35-42-2-1.5.

<sup>3</sup> Ind. Code § 35-42-5-1.

probation.

On July 21, 2010, the State filed another petition to revoke Pearson's probation. It alleged Pearson violated his probation by operating a vehicle while intoxicated, a Class C misdemeanor,<sup>4</sup> did not provide his probation officer with information regarding his employment, did not support his dependents, and did not report to his probation officer on three occasions after he was instructed to do so. Pearson admitted the allegations in the petition without a plea agreement. The trial court conducted a hearing after which it ordered Pearson to serve the remainder of his suspended sentence.

### **DISCUSSION AND DECISION**

“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). After finding a probation violation, the trial court may continue the person's probation, extend a person's probation, or order execution of all or part of the person's suspended sentence. Ind. Code § 35-38-2-3(g). Trial judges have considerable leeway in determining how to proceed after ordering probation. *Prewitt*, 878 N.E.2d at 188. If we review those decisions too strictly, trial courts “might be less inclined to order probation to future defendants.” *Id.* As a result, we review probation revocation decisions under an abuse of discretion standard. *Id.* A decision is an abuse of discretion when it “is clearly against the logic and effect of the facts and circumstances.” *Id.*

Pearson asserts the trial court abused its discretion because the sanction does not logically relate to his transgressions. Pearson notes he has not failed a drug test while on

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<sup>4</sup> Ind. Code § 9-30-5-1(a).

probation and his operation of a vehicle while intoxicated is his only offense in the seventeen years since his initial conviction. Pearson claims he missed the sessions with his probation officer because he believed a petition to revoke his probation was forthcoming.

We find no abuse of discretion. Pearson admitted he did not provide his probation officer with employment information, support his dependents, or report to his probation officer, thus violating his probation. These violations are similar to those alleged the first time the court revoked Pearson's probation. Pearson also violated his probation by operating a vehicle while intoxicated. While on probation, Pearson repeatedly misrepresented his employment status to his probation officer; for example, when Pearson's probation officer confronted Pearson with documentation proving Pearson was employed but had not reported that employment, Pearson continued to deny he was employed. The trial court found Pearson "had not taken the Court's probation seriously," and thus was not a good candidate for continued probation. (Tr. at 85-86.) Based on these facts, we cannot say the trial court abused its discretion in ordering Pearson to serve the remainder of his sentence. *See, e.g., Peterson v. State*, 909 N.E.2d 494, 499-500 (Ind. Ct. App. 2009) (holding court did not abuse its discretion by revoking the entire suspended sentence when appellant violated probation by viewing pornography in violation of his treatment contract and conditions of probation).

Affirmed.

BAKER, J., and BRADFORD, J., concur.