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**IN THE
COURT OF APPEALS OF INDIANA**

DWIGHT SARGEANT,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-0611-CR-1004
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Tanya Walton Pratt, Judge
Cause No. 49G01-9709-CF-140546

July 27, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Dwight Sargeant's ("Sargeant") probation was revoked in Marion Superior Court after he tested positive for illegal substances. He appeals raising two issues: whether the trial court had personal jurisdiction over him and whether the trial court erred when it failed to advise him of his due process rights. Concluding that Sargeant's probation was properly revoked, we affirm.

Facts and Procedural History

In 1998, Sargeant was convicted of Class B felony robbery and was ordered to serve a twelve-year sentence with two years suspended to probation. Because Sargeant did not receive good time credit, he served nine years of his ten-year executed sentence in prison. He was paroled in 2006 and placed on probation. From July 2006 to September 2006, Sargeant tested positive for cocaine and/or marijuana on several occasions.

At a hearing held on October 12, 2006, Sargeant admitted to using cocaine and marijuana in July, August, and September of 2006. The trial court found that Sargeant had violated his probation due to his repeated drug use and ordered him to serve his previously suspended two-year sentence in Community Corrections. The court indicated that Sargeant would be released to home detention after he demonstrated that he was "clean and sober." Tr. p. 70. Sargeant now appeals. Additional facts will be provided as necessary.

I. Personal Jurisdiction

Sargeant argues that "the trial court committed fundamental error by depriving Mr. Sargeant of due process [] by failing to establish personal jurisdiction *ab initio*[" Br. of Appellant at 4. Sargeant asserts that the trial court lacked personal jurisdiction over him

because he was on parole, and therefore, still under the jurisdiction of the Department of Correction.

Sargeant appeared before the court at several hearings. Sargeant did notify the court that he was also on parole, and at the October 12, 2006 hearing, Sargeant's counsel stated that he was trying to get Sargeant released from parole because he also was on probation. Tr. pp. 66-67. Although the trial court's jurisdiction was discussed, Sargeant never made a personal jurisdiction objection. Consequently, his argument is waived. See Truax v. State, 856 N.E.2d 116, 122 (Ind. Ct. App. 2006) (The defendant waived his claim of lack of personal jurisdiction because he submitted himself to the authority of the court by appearing at scheduled proceedings.).

II. Sargeant's Due Process Rights

Sargeant also asserts that "the trial court committed fundamental error during the instant probation hearings by failing to apprise Mr. Sargeant of his rights under Ind[iana] Code [section] 35-38-2-3 and Indiana case law, thus depriving him of due process of law." Br. of Appellant at 11.

Although there are certain due process rights that inure to a probationer at a revocation hearing, a probation revocation hearing is not to be equated with an adversarial criminal proceeding. Morrissey v. Brewer, 408 U.S. 471, 482 (1972); Cox v. State, 706 N.E.2d 547, 549 (Ind. 1999). Moreover, "[w]hen a probationer admits to the violations, the procedural due process safeguards and an evidentiary hearing are not necessary." Cox v. State, 850 N.E.2d 485, 488 (Ind. Ct. App. 2006) (citing Parker v. State, 676 N.E.2d 1083, 1085 (Ind. Ct. App. 1997)).

Sargeant, who was represented by counsel, admitted that he violated his probation by using cocaine and marijuana in July, August, and September of 2006. Under these facts and circumstances, Sargeant has not demonstrated that his due process rights were violated.

Conclusion

Sargeant failed to raise a personal jurisdiction objection in the trial court, and therefore, waived that claim for the purposes of appeal. Sargeant has also not demonstrated that his due process rights were violated.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.