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**IN THE
COURT OF APPEALS OF INDIANA**

TODD MURRAY,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 48A05-0611-CR-675

APPEAL FROM THE MADISON SUPERIOR COURT

The Honorable Dennis Carroll, Judge

Cause No. 48D01-0009-CF-371

August 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Todd Murray appeals the revocation of his probation. Murray raises one issue, which we revise and restate as whether the evidence was sufficient to revoke Murray's probation and impose a suspended sentence of five years. We affirm.

The relevant facts follow. On September 28, 2000, Murray was charged with burglary as a class C felony, theft as a class D felony, resisting law enforcement as a class A misdemeanor, striking a law enforcement animal as a class A misdemeanor, and being an habitual offender. Murray pleaded guilty to all charges, and the trial court sentenced him to twelve years, with six and one-half years executed, in the Department of Correction. Murray was also ordered to be placed on probation for five years. Murray was released to probation on September 9, 2005.

On July 19, 2006, Murray was downstairs in the home of Jennifer Sheets and her fiancé Marcus Pearson. Sheets and Pearson got into an argument, and when Pearson left with Murray, Sheets noticed her digital camera was missing. When Pearson and Murray returned to the house, Sheets asked them to empty their pockets. Pearson complied, while Murray refused. Shortly thereafter, Sheets called the police, and after they arrived, they found Sheets's camera in the bushes, around six feet from Murray. Murray was placed into custody, and when he was searched, the officer found a credit card, a key, women's jewelry and a USB cable cord that had been attached to the digital camera.

The probation department filed a notice of probation violation alleging the following violations: (1) committing a new offense of theft, (2) failure to report a new arrest, (3) curfew violation. After an evidentiary hearing on September 12, 2006, the trial court found that Murray violated probation by being out past curfew and being charged

with a new criminal offense, theft. The trial court ordered an executed sentence of five years in the Department of Correction.

On appeal, Murray argues that there is insufficient evidence to find that he violated the terms of his probation. In reviewing the sufficiency of the evidence in probation revocation cases, we use the same standard as with any other sufficiency question. Richeson v. State, 648 N.E.2d 384, 389 (Ind. Ct. App. 1995), reh'g denied, trans. denied. If substantial evidence of probative value supports the trial court's decision that the appellant has committed a violation of a condition of his probation, then revocation of probation was proper. Id. We neither reweigh the evidence nor judge the credibility of the witnesses. Meniffee v. State, 600 N.E.2d 967, 970 (Ind. Ct. App. 1992), clarified on denial of reh'g, 605 N.E.2d 1207 (1993).

Evidence of a single probation violation is sufficient to sustain a revocation of probation. Id. One condition of Murray's probation was that he was required to be at home between the hours of midnight or one o'clock in the morning until six o'clock in the morning. When asked whether he was at Sheets's residence past his curfew, Murray responded, "yes." Transcript at 64. Murray was arrested on July 19, 2006, before six o'clock in the morning at Sheets's residence. We find that Murray's curfew violation alone was enough for the trial court to revoke his probation.

Murray also argues that "a violation of curfew does not justify an executed sentence of five years." Appellant's Brief at 4. In probation revocation proceedings, we review a trial court's sentencing decision for an abuse of discretion. Goonen v. State, 705 N.E.2d 209, 212 (Ind. Ct. App. 1999). An abuse of discretion occurs when the decision

is clearly against the logic and effect of the facts and circumstances. Smith v. State, 730 N.E.2d 705, 708 (Ind. 2000), reh'g denied. Based on the evidence of the curfew violation or theft charge, the trial court was within its discretion when it sentenced Murray to five years in the Department of Correction.

Murray also argues that there is insufficient evidence to use his arrest for theft as a probation violation. In Richeson, we found that the State does not need to show that the probationer was convicted of a new crime. Richeson, 648 N.E.2d at 389. The trial court only needed to find that there was probable cause to believe that the defendant violated a criminal law. Id. Murray was in Sheets's downstairs alone. After he left with Pearson, Sheets discovered that her camera was missing. Murray was found with the camera near him and several of Sheets' personal property on his person, such as Sheets' jewelry, credit card and USB key. We find that there was enough evidence to establish probable cause to properly revoke Murray's probation for committing theft.

Given Murray's violations, we cannot say that there was insufficient evidence to support Murray's revocation of probation. See, e.g., id. at 622 (holding that proof of a single violation of the conditions of a defendant's probation is sufficient to support a trial court's decision to revoke probation). Moreover, the trial court did not abuse its discretion by imposing five years of the suspended sentence.

For the foregoing reasons, we affirm the revocation of Murray's probation.

Affirmed.

MAY, J. and BAILEY, J. concur