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**IN THE
COURT OF APPEALS OF INDIANA**

TONYA MEADORS,)

Appellant-Defendant,)

vs.)

No. 18A04-0704-CR-226

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Richard A. Dailey, Judge
Cause No. 18C02-0512-FB-28

September 19, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Tonya Meadors (“Meadors”) appeals the decision by the Delaware County Forensic Drug Court that she serve her previously suspended sentence for Burglary, as a Class C felony,¹ imposed through a plea agreement. We affirm.

Issue

Meadors raises only one issue for appeal, which we restate as whether there was sufficient evidence to support the drug court’s decision to remove Meadors from the Delaware County Forensic Diversion Drug Court Program (“Diversion Program”) and require the execution of her sentence.

Facts and Procedural History

During the summer of 2005, Meadors was an accessory to a friend breaking into a dwelling and stealing some belongings, including personal checks. Shortly after the burglary, Meadors attempted to cash one of the stolen checks. On December 21, 2005, the State charged her with Burglary, as a Class B felony.² On June 15, 2006, Meadors entered a plea agreement in which she agreed to plead guilty to Burglary, as a Class C felony. On July 27, 2006, the trial court accepted the plea agreement. Pursuant to the plea agreement, Meadors received a six-year sentence, with three years executed and three years suspended to probation. The agreement further provided execution of the sentence would be stayed if Meadors successfully completed the Diversion Program. Meadors was subsequently placed in the Diversion Program.

¹ Ind. Code § 35-43-2-1.

On November 13, 2006, Meadors tested positive for cocaine. On November 20, 2006, Meadors appeared in court; after this appearance, Meadors failed to appear for a urine screen. Meadors did not report to the Delaware County Community Corrections (“DCC”) for the remainder of the week of November 20, 2006.

On November 27, 2006, Meadors again appeared in court. She testified under oath that a urine screen would be negative for controlled substances, and the court ordered a urine screen. After the drug screen but before the results were reported, she returned to court and admitted she had used cocaine the day before.

On December 11, 2006, the DCC case manager reported Meadors had failed to report to the DCC since November 30, 2006. However, on December 11, 2006, Meadors appeared and testified under oath she had not consumed cocaine since her last failed screen the month before, and consequently her urine screen would test negative for controlled substances. After a preliminary test indicated her urine screen was positive for cocaine, Meadors admitted she used cocaine two nights prior to the screen.

A petition for revocation of her placement was filed on January 3, 2007. After an evidentiary hearing on February 21, 2007, Meadors was found to have violated the rules of the Diversion Program and ordered to serve an executed sentence.

Meadors now appeals.

Discussion and Decision

The Forensic Diversion Program is encompassed in Community Corrections. See Ind. Code § 11-12-3.7-4. When reviewing the revocation of placement in a community

² I.C. § 35-43-2-1.

corrections program, the standard of appellate review mirrors that of a probation revocation. Cox v. State, 706 N.E.2d 547, 549 (Ind. 1999); Brooks v. State, 692 N.E.2d 951, 953 (Ind. Ct. App. 1998), trans. denied. We will not reweigh evidence or assess the credibility of witnesses. Braxton v. State, 651 N.E.2d 268, 270 (Ind. 1995). Rather, we consider only the evidence that supports revocation from the program, and draw all reasonable inferences from that evidence. Id. The State must prove a probation violation only by a preponderance of the evidence. Ind. Code § 35-38-2-3(e).

Here, the terms of Meador's community corrections placement were pursuant to a plea agreement. A plea agreement is a contract, binding upon both parties when accepted by the trial court. Griffin v. State, 756 N.E.2d 572, 574 (Ind. Ct. App. 2001), trans. denied. If a court accepts the terms to a plea agreement, the court is then bound to the terms contained in the agreement and further discretion is foreclosed. Jeffries v. State, 744 N.E.2d 1056, 1058 (Ind. Ct. App. 2001).

According to paragraph eleven of Meador's plea agreement, any "major violation" of the program rules results in the filing of a Petition for Revocation. Appellant's Appendix at 33. The plea agreement defines a major violation as "absconding from the program, commission of a new criminal offense or more than three positive screens for alcohol or a controlled substance." Id. The plea agreement also states, "[a]t a hearing on said Petition, should the Forensic Diversion Judge determine, by a preponderance of the evidence, that there has been a major violation, the defendant shall be dismissed from the program and his sentence shall be executed." Id.

Meadors tested positive for cocaine three times between November 13, 2006 and December 11, 2006. Moreover, Meadors failed to report to her case manager on several occasions, specifically from December 4, 2006 through December 8, 2006, in violation of Conditions of Participation Number Thirty-One. This evidence is sufficient to sustain the drug court's ruling that she absconded from the Forensic Diversion Program and hence committed a major violation.³

The Forensic Diversion Judge found, by a preponderance of the evidence, that Meadors committed a major violation of the Forensic Diversion Program. We decline to reweigh the evidence. We conclude there was sufficient evidence to find Meadors violated the terms of her placement in the Diversion Program.

Conclusion

There was sufficient evidence to find, by a preponderance of the evidence, that Meadors violated the terms of her placement.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.

³ The State also argues that Meadors committed a new criminal offense while in the program by committing perjury. Perjury occurs when a person "makes a false, material statement under oath or affirmation, knowing that statement to be false or not believing it to be true." Ind. Code § 35-44-2-1. Meadors testified under oath that a urine screen would test negative for controlled substances on November 27, 2006, although she had used cocaine the day before. On December 11, 2006, Meadors again testified under oath her urine screen would indicate she had not used drugs, and she had not consumed cocaine since her last failed screen on November 27, 2006. After a preliminary result indicated cocaine was found in her urine screen, Meadors admitted under oath she consumed cocaine two nights before her court appearance. Although this might be sufficient for finding Meadors committed a major violation, we do not revisit this issue, because the drug court did not make its ruling based on this evidence.