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**IN THE
COURT OF APPEALS OF INDIANA**

JOSEPH V. HAAS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 42A05-0707-CR-376

APPEAL FROM THE KNOX SUPERIOR COURT
The Honorable W. Timothy Crowley, Judge
Cause No. 42D01-9410-CF-75

October 16, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Joseph V. Haas (“Haas”) appeals the trial court’s order that he serve his previously suspended sentence. We affirm.

Issue

Haas raises one issue on appeal, which we restate as whether Haas received adequate notice of the State’s allegation that he violated the terms of his probation.¹

Facts and Procedural History

Pursuant to a plea agreement, the trial court entered a judgment of a conviction against Haas for Burglary as a Class B felony,² and on August 23, 1995, the trial court sentenced Haas. On May 31, 2006, Haas filed an Agreed Modification of Sentence. On June 15, 2006, the trial court ordered Haas to be placed in the Wabash Valley Community Corrections Work Release Program until December 12, 2006, after which he would be placed on supervised probation until June 6, 2007.

On January 25, 2007, Haas was arrested. The next day, the State filed a Notice of Probation Violation alleging Haas violated his probation by “[b]eing arrested in Knox County, Indiana on January 25, 2007 for Trespassing, Possession of Paraphernalia and Possession of Methamphetamine.” Appellant’s Appendix at 4. The notice further indicated the “intention of the Probation Department to recommend that [Haas]’s suspended sentence be revoked.” Id.

A probation revocation hearing was held on February 15, 2007, at which the State

¹ Haas does not challenge the sufficiency of the evidence presented against him.

called the two police officers present at the arrest as well as Haas's probation officer. The trial court found that Haas violated the terms of his probation and sentenced him to serve 183 days at the Indiana Department of Correction with credit for 21 days served.

Haas now appeals.

Discussion and Decision

Probation is a conditional liberty, and "the granting of a conditional liberty is a favor and not a right." Gardner v. State, 678 N.E.2d 398, 401 (Ind. Ct. App. 1997). A probation revocation hearing is civil in nature; therefore, a violation need only be proven by a preponderance of the evidence. Washington v. State, 758 N.E.2d 1014, 1017 (Ind. Ct. App. 2001). "A trial court may revoke a person's probation upon evidence of the violation of any single term of probation." Id.

In this case, Haas asserts the Notice of Probation Violation was insufficient and violated his Due Process rights. "The Due Process Clause of the Fourteenth Amendment imposes procedural and substantive limits on the revocation of the conditional liberty created by probation." Braxton v. State, 651 N.E.2d 268, 269 (Ind. 1995). "Among the due process rights to be accorded a probationer is written notice of the claimed probation violations." Id.

Haas asserts his Notice was insufficient because it merely alleged that he was arrested. He cites England v. State, 670 N.E.2d 104, 105 (Ind. Ct. App. 1996), trans. denied, as the basis of his argument.³ In England, the defendant was not provided any written notice that

² Ind. Code § 35-43-2-1.

³ Haas also cites Martin v. State in support of his argument that an arrest is not enough to revoke probation. Martin v. State, 813 N.E.2d 388, 391 (Ind. Ct. App. 2004). This is a correct statement of the law. However, the trial court revoked Haas's probation not solely based upon the arrest but because the trial court found,

the State sought revocation of his probation or of the alleged violations supporting the revocation of his probation. Id. This is readily distinguishable from Haas's case.

The State informed Haas it was seeking revocation of his probation along with the basis for the revocation. Haas was given almost three weeks to prepare for the hearing on the revocation of his probation. Moreover, Haas was given more detailed information than a mere arrest. Specifically, the Notice provided Haas with the county of the arrest, the date of the arrest and the three specific charges ensuing from the arrest. This was enough information for Haas to prepare his defense.

Affirmed.

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

after hearing the testimony of two police officers, that the arrest was reasonable and there was probable cause to find Haas violated a law at the time of the arrest.