

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs April 11, 2023

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Appellate Courts

STATE OF TENNESSEE v. TIMOTHY TRAVIS JENKINS

Appeal from the Circuit Court for Lawrence County
No. 35683 Stella L. Hargrove, Judge

No. M2022-01093-CCA-R3-CD

The Defendant, Timothy Travis Jenkins, appeals the trial court's order imposing confinement after finding that the Defendant violated his probation. The Defendant's probation began in 2019, when he was convicted of sale of methamphetamine and given a six-year sentence to be served on supervised probation. In 2022, the trial court issued a probation violation warrant, the Defendant's third, which alleged multiple violations. After a hearing, the trial court revoked the Defendant's probation and ordered him to serve the remainder of his sentence in confinement. On appeal, the Defendant asserts that the trial court abused its discretion when it revoked his probation and when it ordered him to confinement. After review, we affirm the trial court's judgment.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and MATTHEW J. WILSON, JJ., joined.

Travis Jones, District Public Defender; William M. Harris, Assistant District Public Defender (at hearing), Pulaski, Tennessee; Brandon E. White (on appeal), Columbia, Tennessee, for the appellant, Timothy Travis Jenkins.

Jonathan Skrmetti, Attorney General and Reporter; Courtney N. Orr, Senior Assistant Attorney General; Brent A. Cooper, District Attorney General; and Gary M. Howell, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. Facts

In 2019, the Defendant pleaded guilty to sale of methamphetamine, and the trial court imposed a sentence of six years of felony probation. While on probation, the Defendant failed a drug screen and failed to attend a meeting with a social worker. The

Defendant failed to attend a behavioral class as required and the trial court issued a probation violation warrant in September of 2020. The Defendant was arrested and released on bond, pending a hearing. The Defendant failed to comply with the terms of his release, and the violation warrant was amended twice when the Defendant incurred new charges for drug use, drug possession, and driving illegally. Thereafter, the trial court partially revoked the Defendant's probation, but it was eventually reinstated, and he was released. He later incurred a second probation violation, which the trial court ultimately dismissed.

The present matter is a result of the Defendant's third probation violation, in which his probation officer alleged that the Defendant committed sexual battery. At the hearing on this third violation, the parties presented the following evidence: Shonda Gallaher testified that she supervised the Defendant on an earlier sentence for misdemeanor probation and that his probation was fully revoked. Ms. Gallaher recalled a time in 2022 when the Defendant reported to her office for mandatory reporting and was disorderly and made death threats against the staff. Ms. Gallaher called the police. While waiting for the police to arrive, Ms. Gallaher spoke to the Defendant about his pending drug screen. As they spoke, the Defendant reached his hand into Ms. Gallaher's shirt in between her breasts and ran it up her chest to her chin. When the police arrived, Ms. Gallaher reported the Defendant's behavior, which led to him being charged with sexual assault.

Rachel Garner testified that she worked for the Tennessee Department of Correction in the Probation and Parole Division. Ms. Garner reviewed the Defendant's history, testifying that he had pleaded guilty to the sale of methamphetamine in September of 2019, and was sentenced to six years of probation. The Defendant reported ten days later and failed his drug screen when he tested positive for methamphetamine, oxycodone, and oxycodone. The Defendant was "sanctioned" for this failed screen and ordered to meet with a forensic social worker in October of 2019. The Defendant failed to report to that meeting. The Defendant did report to a November meeting with the social worker, when he was instructed to enroll in alcohol and narcotic addiction support groups. He also completed a behavioral health risk assessment and because he scored "high" for violence, he was referred to a behavioral health class.

In January of 2020, the Defendant's probation officer submitted a probation violation report alleging the Defendant "abscond[ed]" from supervision. Two more probation violations were submitted in 2020. In 2021, his probation officer submitted several more probation violation affidavits alleging that he had committed the offense of joyriding, failed to appear in court, and other noncompliant behavior.

On May 26, 2022, the probation violation report for the Defendant's sexual battery of Ms. Gallaher was submitted, which Ms. Garner testified was the matter before the court.

She clarified that it was technically the third probation violation to have a warrant issued and that the violation was based on the Defendant's failure to obey the laws of the State.

After hearing the evidence, the trial court revoked the Defendant's probation and ordered him to serve the remainder of his sentence in confinement. It is from this judgment the Defendant now appeals.

II. Analysis

On appeal, the Defendant argues that the trial court abused its discretion when it revoked his probation and when it ordered him to serve the balance of his sentence in confinement. The State responds that the trial court acted within its discretion when, after determining that the Defendant had violated the terms of his probation, it revoked the probation sentence and ordered him to serve the remainder of his sentence in confinement. We agree with the State.

A trial court's authority to revoke a suspended sentence is derived from Tennessee Code Annotated section 40-35-310 (2018), which provides that the trial court possesses the power "at any time within the maximum time which was directed and ordered by the court for such suspension, . . . to revoke . . . such suspension" and cause the original judgment to be put into effect. A trial court may revoke probation upon its finding by a preponderance of the evidence that a violation of the conditions of probation has occurred. T.C.A. § 40-35-311(e) (2014). "In probation revocation hearings, the credibility of witnesses is to be determined by the trial judge." *State v. Mitchell*, 810 S.W.2d 733, 735 (Tenn. Crim. App. 1991). If a trial court revokes a defendant's probation, options include ordering confinement, ordering the sentence into execution as originally entered, returning the defendant to probation on modified conditions as appropriate, or extending the defendant's period of probation by up to two years. T.C.A. §§ 40-35-308(a), (c), -310 (2014); *see State v. Hunter*, 1 S.W.3d 643, 648 (Tenn. 1999).

The judgment of the trial court in a revocation proceeding, including the consequences of the revocation, is entitled to a presumption of reasonableness unless there has been an abuse of discretion. *See State v. Dagnan*, 641 S.W.3d 751, 759 (Tenn. 2022); *see also State v. Shaffer*, 45 S.W.3d 553, 554 (Tenn. 2001); *State v. Smith*, 909 S.W.2d 471, 473 (Tenn. Crim. App. 1995). This is true "so long as the trial court places sufficient findings and the reasons for its decisions as to the revocation and the consequence on the record. It is not necessary for the trial court's findings to be particularly lengthy or detailed but only sufficient for the appellate court to conduct a meaningful review of the revocation decision." *See Dagnan*, 641 S.W.3d at 759. Further, a finding of abuse of discretion "reflects that the trial court's logic and reasoning was improper when viewed in light of

the factual circumstances and relevant legal principles involved in a particular case.”
Shaffer, 45 S.W.3d at 555 (quoting *State v. Moore*, 6 S.W.3d 235, 242 (Tenn. 1999)).

Although the trial court’s findings and reasoning regarding its decision are not lengthy or detailed, they are sufficient for our meaningful review of the revocation decisions. The record in this case provided substantial evidence to support the trial court’s revocation of probation and order of confinement. The Defendant failed to abide by the conditions of his release multiple times and received multiple opportunities to redeem himself in the eyes of the trial court prior to the hearing, which led to his eventual revocation. The Defendant’s probation sentence required that he report to his probation officer after release from jail, which he failed to do. During his periods of release, the Defendant also continued to use drugs, failed to report for behavioral counseling, and sexually assaulted an employee of the probation office. Having shown the trial court that he would not abide by the conditions of his release, we conclude that the trial court did not abuse its discretion when it found that the Defendant had violated his probation. Further, we conclude that the trial court did not abuse its discretion when it ordered the Defendant to serve the balance of his sentence in confinement, based on his history of failing to comply with terms of prior probationary sentences. Therefore, the Defendant is not entitled to relief.

III. Conclusion

Based on the foregoing reasoning and authorities, we affirm the trial court’s judgment.

ROBERT W. WEDEMEYER, JUDGE