

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs December 3, 2013

STATE OF TENNESSEE v. JIMI L. GREENE

**Appeal from the Circuit Court for Chester County
No. 11-CR-1 Roy B. Morgan, Judge**

No. W2013-01361-CCA-R3-CD - Filed December 3, 2013

Jimi L. Greene (“the Defendant”) pleaded guilty to promoting the manufacture of methamphetamine, possession of drug paraphernalia, driving on a revoked licence, and violating the financial responsibility law. He was sentenced as a career offender to a total effective sentence of twelve years in the Tennessee Department of Correction. The trial court ordered the Defendant to serve eleven months and twenty-nine days in confinement, with the remainder of his sentence to be suspended to community corrections with several specific conditions. Subsequently, a community corrections violation warrant was filed. The Defendant admitted to the violations alleged in the warrant, and a hearing was held as to disposition. At the conclusion of the hearing, the trial court revoked the Defendant’s community corrections and ordered him to serve the remainder of his sentence in confinement. The Defendant appealed the trial court’s ruling. Upon our thorough review of the record and applicable law, we affirm the judgment of the trial court.

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

JEFFREY S. BIVINS, J., delivered the opinion of the Court, in which THOMAS T. WOODALL and JOHN EVERETT WILLIAMS, JJ., joined.

Kandi Kelley Collins, Assistant Public Defender, Jackson, Tennessee, for the appellant, Jimi L. Greene.

Robert E. Cooper, Jr., Attorney General and Reporter; Meredith Devault, Senior Counsel; James G. Woodall, District Attorney General; and Rolf Hazlehurst, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

A community corrections violation warrant was issued in this case alleging that the Defendant: (1) tested positive for marijuana and morphine; (2) failed on three occasions to report for weekly visits with his case officer; (3) failed to make his required payments of fines, court costs, and restitution for several consecutive months; (4) failed to complete an alcohol and drug assessment; (4) failed to attend the required number of narcotics anonymous meetings; and (5) failed to maintain full-time employment. At the revocation hearing, the Defendant admitted to the violations and requested a hearing as to disposition only.

The Defendant testified that he had a ten-month-old son and that he only skipped his required community corrections payments in order to buy a trailer and provide his son with a place to live. He stated that he had a part-time job picking strawberries. According to the Defendant, he was excused from attending the narcotics anonymous meetings that he missed because he lacked transportation. At the conclusion of the hearing, the trial court noted that the Defendant had an extensive criminal history and multiple prior violations of alternative sentencing. The trial court concluded that the Defendant was “not a proper candidate” to continue on community corrections and ordered the Defendant to serve the remainder of his original twelve-year sentence in confinement. The Defendant filed a timely notice of appeal.

Analysis

The Defendant asserts on appeal that the trial court “abused its discretion in revoking [his] community corrections sentence and ordering him to serve his entire sentence in the Department of Correction[.]” Specifically, he argues that “[t]he circumstances from which the [Defendant’s] violations arose justified additional conditions on his community corrections sentence, including long-term treatment and local incarceration, but not complete revocation of his sentence.”

“Given the similar nature of a community corrections sentence and sentence of probation, . . . the same principles are applicable in deciding whether a community corrections sentence revocation was proper.” State v. Harkins, 811 S.W.2d 79, 83 (Tenn. 1991). The decision to revoke probation rests within the sound discretion of the trial court. State v. Mitchell, 810 S.W.2d 733, 735 (Tenn. Crim. App. 1991). On appeal, this Court will not disturb a trial court’s probation revocation decision absent an abuse of discretion. State v. Shaffer, 45 S.W.3d 553, 554-55 (Tenn. 2001); State v. Farrar, 355 S.W.3d 582, 586 (Tenn. Crim. App. 2011). An abuse of discretion occurs when a trial court “applies incorrect legal standards, reaches an illogical conclusion, bases its ruling on a clearly erroneous assessment

of the proof, or applies reasoning that causes an injustice to the complaining party.” State v. Phelps, 329 S.W.3d 436, 443 (Tenn. 2010).

Once a trial court has determined that a defendant has violated the conditions of his alternative sentence,

[T]he trial judge shall have the right by order duly entered upon the minutes of the court to revoke the probation and suspension of sentence, and:

(A) Cause the defendant to commence the execution of the judgment as originally entered . . . ; or

(B) Resentence the defendant for the remainder of the unexpired term to any community-based alternative to incarceration

Tenn. Code Ann. § 40-35-311(e)(1) (2010). Thus, “[u]pon a finding that a defendant has violated the conditions of probation, a trial court has the authority to cause execution of the defendant’s original judgment as it was originally entered.” State v. Hunter, 1 S.W.3d 643, 647 (Tenn. 1999).

“This Court has repeatedly cautioned that ‘an accused, already on probation, is not entitled to a second grant of probation or another form of alternative sentencing.’” State v. Juan Manuel Coronado, No. E2010-01058-CCA-R3-CD, 2011 WL 704543, at *3 (Tenn. Crim. App. Mar. 1, 2011) (quoting State v. Jeffrey A. Warfield, No. 01C01-9711-CC-0054, 1999 WL 61065, at *2 (Tenn. Crim. App. Feb. 10, 1999)). Furthermore, “[t]here need be only one violation of the conditions of [a defendant’s] probation to support revocation.” State v. Phillip Thomas Wilcox, No. M2002-006670-CCA-R3-CD, 2003 WL 21047133, at *2 (Tenn. Crim. App. May 9, 2003). In the instant case, the Defendant admitted to the violations alleged in the warrant. The trial court considered the Defendant’s criminal history and past violations and determined that he was not an appropriate candidate to be placed back on alternative sentencing. The record supports the trial court’s decision. Accordingly, the trial court did not abuse its discretion in ordering the Defendant to serve the remainder of his original sentence in confinement.

CONCLUSION

For the reasons set forth above, we affirm the judgment of the trial court.

JEFFREY S. BIVINS, JUDGE