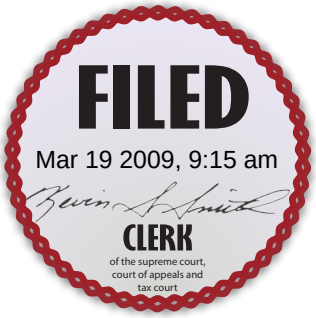
**Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**

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# IN THE
# COURT OF APPEALS OF INDIANA

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|---|---|---|
| CHRIS THOMAS HICKS, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 29A02-0803-CR-202 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

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APPEAL FROM THE HAMILTON SUPERIOR COURT
The Honorable Gail Bardach, Judge
Cause No. 29D06-0701-FD-0225

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**MARCH 19, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**SHARPNACK, Senior Judge**

Chris Hicks appeals the revocation of his probation. We affirm.

Hicks raises two issues for our review:

I. Whether there is sufficient evidence to support the revocation; and

II. Whether the trial court erred in ordering Hicks to serve one-year of an almost three-year suspended sentence.

In May 2007, Hicks pleaded guilty to operating a vehicle with an ACE of .15 or more, a class D felony. Pursuant to the terms of the plea agreement, the trial court sentenced Hicks to three years, with all but 50 days suspended, and placed him on probation for two years. In September 2007, the State filed an Information of Probation Violation alleging that Hicks had failed to pay fees and had consumed alcoholic beverages in violation of his probation. Following a probation revocation hearing, the trial court continued Hicks' probation.

In December 2007, the State filed a second Information of Probation Violation alleging that Hicks refused to submit to a drug screen. Hicks' Hamilton County Probation Officer, James Thomas, testified at the probation revocation hearing. According to Thomas, Hicks telephoned him at 10:00 a.m. on November 29, 2007. Hicks told Thomas that he was calling to notify Thomas that Hicks' pastor was going to take Hicks to the store to get milk, eggs, and cheese because they are the staples of the food groups. Hicks was incoherent at times and slurred his speech. When Thomas asked Hicks if Hicks had been drinking, Hicks responded that he had not.

Thomas asked Hicks to report to the probation department by 4:30 p.m. that afternoon to submit to a drug screen. Hicks, however, claimed that he did not have

transportation. Thomas twice suggested that Hicks ask his pastor to drive him to the department. Both times, Hicks responded that he did not have transportation.

When Thomas learned that Hicks was calling from his girlfriend's house, and that his girlfriend had picked him up and driven him there, Thomas suggested that Hicks ask her to drive him to the probation department. Hicks again responded that he did not have transportation.

Testimony at the probation revocation hearing further revealed that later that day, Hicks' brother telephoned Thomas and told the probation officer that he had been to Hicks' house that day because Hicks was telephoning family members when he was intoxicated. When Hicks' brother was leaving Hicks' house, Hicks' pastor was arriving at the house. Hicks did not report to the probation department that afternoon. At the revocation hearing, Hicks admitted that he did not ask anybody to take him to the probation department that day.

After the hearing, the trial court revoked Hicks' probation for refusing to submit to a drug screen and ordered him to execute one year of his suspended sentence in the Department of Correction. Hicks appeals the revocation as well as the sentence imposed. We address each of his contentions in turn.

Hicks first argues that there is insufficient evidence to support the revocation of his probation. Probation is a favor granted by the State, not a right to which a criminal defendant is entitled. *Cox v. State*, 850 N.E.2d 485, 488 (Ind. Ct. App. 2006). When reviewing an appeal from the revocation of probation, we consider only the evidence

most favorable to the judgment, and we will not reweigh the evidence or judge the credibility of witnesses. *Id.*

Here, Hicks' contentions that his lack of medication caused his incoherent behavior and that he could not find anyone to take him to the probation department are merely requests that we reweigh the evidence. This we cannot do. *See id.*

Hicks also contends that the trial court erred in failing to enter a sentencing statement that included a reasonably detailed reason or circumstance for imposing the sentence. There is no such requirement in a probation revocation proceeding.

We review a trial court's sentencing decision in such proceedings for an abuse of discretion. *Id.* at 489. Pursuant to Indiana Code Section 35-38-2-3(g), if a trial court finds a probation violation, the court may continue the person on probation, extend the probationary period for not more than one year, or order execution of all or part of the sentence that was suspended at the time of initial sentencing.

Here, following the first probation violation, the trial court continued Hicks' probation. Three months later, following a second violation and a revocation, the court ordered Hicks to execute one year of an almost three-year suspended sentence. The trial court did not abuse its discretion.

Affirmed.

ROBB, J., and BROWN, J., concur.