

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
FEBRUARY SESSION, 1997

FILED

May 7, 1997

Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,)
)
 Appellee)
)
 vs.)
)
 CHARLES E. WOODSON,)
)
 Appellant)

No. 01C01-9605-CC-00221

MAURY COUNTY

Hon. **James L. Weatherford**, Judge

(Probation Revocation)

For the Appellant:

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OPINION FILED: _____

AFFIRMED

David G. Hayes
Judge

OPINION

The appellant, Charles E. Woodson, appeals as of right from a judgment of the Maury County Circuit Court revoking his probation. In this appeal, the appellant contends that the trial court erred by ordering that his original sentence be reinstated without considering other alternatives to incarceration.

On July 13, 1993, the appellant pled guilty to one count of possession of cocaine for resale, a class C felony, and received a four year suspended sentence. In addition, the trial court imposed a fine in the amount of \$2,000. On April 14, 1994, a probation violation report was filed with the court alleging violation of the following rules: (2) failure to report, (9) failure to "obey the law," (12) failure to pay fees as directed, and (13) failure to observe special conditions. Documentation supporting these allegations indicated that the appellant had failed to report to his probation officer for the previous six months, was convicted of three misdemeanor offenses while on probation, had failed to pay fees as ordered, and had failed to make any payments toward his fine. Additionally, the record indicates that the appellant had tested positive for drugs during this probationary period. Again, when directed by the trial court to report to his probation officer for a drug screen, the appellant failed to appear. Finally, following the appellant's arrest on the violation warrant, the trial court referred the appellant to the intensive supervision program to determine his suitability for intensive probation. The program manager found the appellant's attitude uncooperative and concluded that he would not benefit from counseling or treatment.

The allegations of probation violation were not disputed at the revocation hearing. The appellant admitted to violating the terms and conditions of his probation explaining that, "I was just going through them problems with my family, you know." At the conclusion of the revocation hearing, the trial court

revoked the appellant's four year suspended sentence and ordered reinstatement in the Department of Correction.

The appellant contends that the trial court erred in ordering that his entire four year sentence must be served in the Department of Correction without considering other alternatives. However, if the trial court found by a preponderance of the evidence that the appellant violated a condition of his probation, it was within the court's discretion to revoke the appellant's probation and cause execution of the judgment as it was originally entered. Tenn. Code Ann. §§ 40-35-310, -311(d) (1990). State v. Harkins, 811 S.W.2d 79, 82 (Tenn. 1991). If the record contains substantial evidence to support the trial court's conclusion that the appellant violated a condition of his probation, no abuse of discretion will be found. Id.

The appellant does not dispute the fact that he violated conditions of his release. Indeed, the record in this case contains overwhelming evidence to support the revocation. Accordingly, we conclude that the trial court did not abuse its discretion in reinstating the appellant's original four year sentence and designating confinement in the Department of Correction. The judgment of the trial court is affirmed.

DAVID G. HAYES, Judge

CONCUR:

GARY R. WADE, Judge

J. CURWOOD WITT, JR., Judge