

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

APRIL 1997 SESSION

**FILED**  
**July 25, 1997**  
**Cecil Crowson, Jr.**  
Appellate Court Clerk

STATE OF TENNESSEE, )  
 )  
 Appellee )  
 )  
 V. )  
 )  
 FORSHUN DELAINE MILLER )  
 a.k.a. SHAWN MILLER, )  
 )  
 Appellant )  
 )

NO. 02C01-9607-CC-00210  
MADISON COUNTY  
HON. FRANKLIN MURCHISON,  
JUDGE  
(Probation Revocation)

FOR THE APPELLANT

FOR THE APPELLEE

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OPINION FILED:\_\_\_\_\_

AFFIRMED - RULE 20 ORDER

William M. Barker, Judge

## ORDER

The Appellant, Forshun Delaine Miller, appeals as of right the judgment of the Madison County Criminal Court which revoked his probation. We affirm the judgment of the trial court.

On March 5, 1992, a judgment of conviction was entered finding the appellant guilty of attempted arson following his plea of guilty. He was sentenced to a term of four years to be served on probation. Later, on March 9, 1993, the appellant was placed upon intensive probation for his failure to report to his probation officer as previously directed. He was also required to submit to random drug screens. Additionally, in 1993 the appellant was found guilty of possession of cocaine for resale. He was sentenced to eight years, to be served on probation consecutively to the prior attempted arson sentence, for a total probation period of twelve years.

On April 14, 1994, a probation violation was filed and an arrest order issued. The appellant, however, could not be located until 1996, and the revocation hearing was conducted on March 5, 1996. Following that hearing, the trial court found that the appellant had violated the terms of his probation and revoked his probation and ordered the appellant to serve his full twelve-year sentence in the Tennessee Department of Correction.

The decision to revoke a suspended sentence rests in the sound discretion of the trial court. On appeal, the findings of the trial court are entitled to the weight of a jury verdict, and the appellant has the burden to demonstrate that the record contains no substantial evidence to support the finding of the trial court that a violation of the conditions of probation has occurred. State v. Wall, 909 S.W.2d 8, 9-10 (Tenn. Crim. App. 1994); State v. Harkins, 811 S.W.2d 79, 82 (Tenn. 1991); State v. Gabel, 914 S.W.2d 562, 564 (Tenn. Crim. App. 1995). Our review of the record on appeal in this case reveals that the trial court did not abuse its discretion when it revoked the appellant's probation and ordered his incarceration. The trial court found that the appellant had violated the terms of his probation by failing to report to his probation

officer, failing to allow visits to his home, failing drug screens, and absconding from probation supervision from 1994 until his apprehension in 1996. The record on appeal fully supports the trial court's findings and its decision to revoke the appellant's probation.

Accordingly, the judgment of the trial court is affirmed pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

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WILLIAM M. BARKER, JUDGE

CONCUR:

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JOSEPH M. TIPTON, JUDGE

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DAVID G. HAYES, JUDGE