

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs January 10, 2023

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STATE OF TENNESSEE v. CLINTON D. BRADEN

**Appeal from the Criminal Court for Davidson County
Nos. 2019-A-341, 2019-B-937 Jennifer Smith, Judge**

No. M2022-00733-CCA-R3-CD

In February of 2021, Defendant, Clinton D. Braden, pleaded guilty to burglary and identity theft. In exchange, he received a total effective sentence of 16 years suspended to community corrections. On May 4, 2022, Defendant admitted he again violated the terms of his community corrections program and offered no proof for the trial court to make findings of what consequences to apply. Defendant now appeals, and we affirm, the trial court's judgment to impose his original sentence to serve in full.

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

TIMOTHY L. EASTER, J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and JILL BARTEE AYERS, JJ., joined.

Martesha L. Johnson, District Public Defender; Emma Rae Tennent (on appeal) and Jeff Preptit (at hearing), Assistant District Public Defenders, Nashville, Tennessee, for the appellant, Clinton D. Braden.

Jonathan Skrmetti, Attorney General and Reporter; Brooke A. Huppenthal, Assistant Attorney General; Glenn R. Funk, District Attorney General; and David Jones, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Defendant pleaded guilty to burglary in case number 2019-A-341 and identity theft in case number 2019-B-937 on February 11, 2021. Pursuant to the plea agreement, imposed eight-year sentences as a persistent offender for each conviction and ran them consecutively, for a total effective 16-year sentence suspended to community corrections. Also pursuant to the plea agreement, 19 other indictments were dismissed.

The first warrant for violation of the community corrections program was issued on April 22, 2021, after Defendant tested positive for cocaine. The trial court dismissed the warrant and ordered Defendant to be released to an inpatient treatment facility. A second warrant for violation of the community corrections program was issued on July 8, 2021, for failing to report to Davidson County Community Corrections. The trial court dismissed this warrant and ordered Defendant remain on community corrections. The third warrant for violation of the community corrections program was issued on March 23, 2022, after Defendant was arrested for theft on March 2, 2022. This warrant was amended on April 18, 2022, after Defendant was arrested for criminal trespass, theft of property, and fraudulent use of a credit card on April 14, 2022.

The trial court held a revocation hearing on May 4, 2022. Neither party presented testimony for any purposes at the hearing. Defendant, through counsel, conceded to violating his community corrections program.

The trial court reviewed Defendant's extensive criminal history and stated, "At a certain point, this [c]ourt would be remiss in ignoring matters of public safety." The court noted its practice of affording people multiple opportunities for rehabilitation. However, in light of Defendant's new charges, it would not "subject this community to any more criminal behavior by [Defendant]." The court accepted Defendant's concession of the violation, sustained the violation, and placed Defendant's original 16-year sentence into effect. Defendant appealed.

Analysis

Defendant argues that the trial court abused its discretion when it placed his original sentence into effect at the conclusion of the revocation hearing. The State responds that the trial court conducted a meaningful review and properly ordered Defendant to serve his original sentence.

In *State v. Dagnan*, our supreme court determined that "probation revocation is a two-step consideration on the part of the trial court." *State v. Dagnan*, 641 S.W.3d 751, 757 (Tenn. 2022). A trial court is required to make two separate decisions: (1) whether to revoke probation; and (2) if probation is revoked, what consequence will apply. *Id.* The supreme court explained the standard of review of a decision revoking probation as follows:

abuse of discretion with a presumption of reasonableness 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* [*State v.*] *Bise*, 380 S.W.3d [682,] 705-06 [(Tenn. 2012)]. “This serves to promote meaningful appellate review and public confidence in the integrity and fairness of our judiciary.” [*State v.*] *King*, 432 S.W.3d [316,] 322 [(Tenn. 2014)]. When presented with a case in which the trial court failed to place its reasoning for a revocation decision on the record, the appellate court may conduct a de novo review if the record is sufficiently developed for the court to do so, or the appellate court may remand the case to the trial court to make such findings. *See King*, 432 S.W.3d at 327-28.

Id. at 759.

Given the similar nature of a sentence of community corrections and a sentence of probation, the same principles are applicable in deciding whether the revocation of a community corrections sentence is proper. *State v. Harkins*, 811 S.W.2d 79, 83 (Tenn. 1991). The two-step consideration put forth in *Dagnan* also applies to community correction revocation hearings. *See State v. Thomas Adam Blackwell*, No. M2020-01171-CCA-R3-CD, 2022 WL 16946493, at *4 (Tenn. Crim. App. Nov. 15, 2022), *no perm. app. filed*; *State v. Casey Bryan Gibbs*, No. M2021-00933-CCA-R3-CD, 2022 WL 1146294, at *3 (Tenn. Crim. App. Apr. 19, 2022), *no perm. app. filed*.

Here, Defendant admitted to his violation of the community corrections program and does not challenge the trial court's revocation of his community corrections sentence. Rather, he contends that the trial court should have considered sentencing alternatives in light of his addiction issues and age. Defendant offered no proof to support any of these considerations.

At the consequences portion of the revocation hearing, the trial court reviewed Defendant's criminal history and noted Defendant's numerous prior charges. After considering Defendant's criminal history, the court stated, “At a certain point, this [c]ourt would be remiss in ignoring matters of public safety.” As evidenced by Defendant's community corrections violation, past rehabilitation efforts proved unsuccessful. In rendering its decision, the trial court stated, “it is my practice to give multiple opportunities if I think there is an opportunity or a chance for rehabilitation. I have not seen that in this case, and I am just not willing again . . . to subject this community to any more criminal behavior from [Defendant].”

We conclude that the trial court did not abuse its discretion in imposing Defendant's original sentence as a consequence. With no proof other than Defendant's

extensive record and Defendant's admitted violation of his alternative sentence on which to "make sufficient findings and reasons for its decisions," the trial court was left empty handed, and we are as well. *Dagnan*, 641 S.W.3d at 759.

Conclusion

Based on the foregoing, we affirm the judgment of the trial court.

TIMOTHY L. EASTER, JUDGE