

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs August 11, 2026 at Nashville

STATE OF TENNESSEE v. WILTHA BROWN

Appeal from the Criminal Court for Hamilton County
No. 318287 Amanda B. Dunn, Judge

No. E2025-01920-CCA-R3-CD

The Defendant, Wiltha Brown, appeals from the Hamilton County Criminal Court's probation revocation for his six-year sentence for aggravated burglary. On appeal, he contends that the trial court abused its discretion in ordering his sentence into execution after he was found to have violated multiple rules of probation, rather than returning him to probation conditioned upon mental health and substance abuse treatment. We affirm the judgment of the trial court.

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

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER, P.J., and J. ROSS DYER, J., joined.

Amanda Morrison (on appeal); and Cameron D. Price (at revocation hearing), Chattanooga, Tennessee, for the appellant, Wiltha Brown.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Coty Wamp, District Attorney General; Natalie Cropp, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

On the day the Defendant was released from jail pursuant to a plea agreement for six years of probation for one count of aggravated burglary, he was fitted with a GPS ankle monitor and told to report to the probation office the same day, which he failed to do. That evening, his ankle monitor GPS data showed his location in Georgia, despite the terms of his probation requiring that he not leave Hamilton County without permission. The ankle monitor later stopped transmitting its location. After his probation officer was unable to locate the Defendant, the officer obtained an arrest warrant for the charge of theft of property, the ankle monitor. The probation officer also obtained a probation violation

FILED

10/02/2026

Clerk of the
Appellate Courts

warrant based upon violations of four rules of probation related to the Defendant's having violated the law as evidenced by his new theft charge, failure to report a change of address, failure to report to his probation officer, failure to obtain permission before leaving his county of residence and the State of Tennessee, and failure to comply with the terms of GPS monitoring. The Defendant was charged approximately four months later with theft of property, assault, aggravated assault, possession of contraband in a penal institution, and possession of drug paraphernalia. A second revocation petition was filed, adding these new charges as an additional basis for revocation. The probation officer later filed an addendum to the probation violation report which alleged violation of two rules of probation based upon the new charges.

At the revocation hearing, Ivan Patton, a probation officer, testified that he "installed" a GPS monitor on the Defendant's person before the Defendant's release from the Hamilton County Jail, which other evidence showed was on January 3, 2025. Mr. Patton said he advised the Defendant about how to keep the monitor in working order and how to charge it at least once a day. Mr. Patton said he told the Defendant to report to the probation office to complete paperwork later the same day. However, Mr. Patton said the Defendant called the office that day and reported that he "couldn't get a ride . . . and he was going to have to use his bus pass." Mr. Patton said the Defendant never reported to the probation office. Mr. Patton said that when he checked the Defendant's GPS location, the Defendant was in Catoosa County, Georgia, despite that the rules of probation required the Defendant to obtain Mr. Patton's permission to leave Hamilton County, Tennessee. Mr. Patton said he lost the ability to track the Defendant's location because "[t]he GPS monitor had died." Mr. Patton said that the GPS monitor would have been accurate, depending on location, to within a "[c]ouple hundred yards," and that the monitor might not transmit if the wearer's location was inside a thick concrete building, if the wearer was surrounded by large buildings, or if the wearer was in a parking garage. Mr. Patton said that the monitor was never returned and that he did not know the circumstances of its removal from the Defendant's person.

Mr. Patton testified that he attempted to locate the Defendant at "a collateral address" on January 7, 2025, but was unsuccessful. Mr. Patton did not think the Defendant had given him a telephone number during their meeting at the jail and said he had told the Defendant that the Defendant would need to provide a telephone number and address.

Chattanooga Police Department (CPD) Officer Tyler Shackleford testified that he responded to a gas station about an incident involving the Defendant on May 24, 2025. After interviewing a man and a woman at the scene, Officer Shackleford arrested the Defendant for aggravated assault, possession of drug paraphernalia, and for unspecified outstanding warrants. Officer Shackleford "later, at the jail," charged the Defendant with possession of marijuana.

Portions of Officer Shackelford's body camera video footage from the Defendant's May 24, 2025 arrest was played for the trial court.

Robin Lombardo testified that, in May 2025, Bobby Deal was working on Ms. Lombardo's car outside a house in "the middle of the night." She said Mr. Deal had been working several hours and that the Defendant, whom she did not know but was unsure whether Mr. Deal knew, "was back and forth." She said that, at some point, the Defendant approached them as she was seated in the driver's seat, stood on the passenger's side, and accused her of being a "cop." She said the Defendant demanded that she lift her shirt to prove that she was not "wired." She said the Defendant picked up a metal pipe, walked to the driver's side, stood within a foot of her, "held up" the pipe, and "said he was going to knock [them] out." She said she had been afraid when the Defendant held the pipe because she thought he would hit her and cause serious injuries. She said that no argument had occurred before the Defendant made the statement. Ms. Lombardo said that, after the Defendant threatened her and Mr. Deal, Mr. Deal stated that he wanted to "go to the store." She said the Defendant put down the pipe and stated he wanted to go to the store with them.

Ms. Lombardo testified that, as they walked to a convenience store, the Defendant made sexually suggestive comments to her. She said that when they reached the store, she went in the bathroom and called 9-1-1.

The Defendant testified that he had never met Ms. Lombardo or threatened her with a pipe. He said he met Mr. Deal through a mutual acquaintance. He said that Mr. Deal had been working on Ms. Lombardo's car from early morning to late night and that Ms. Lombardo sat in her car the entire time.

The Defendant acknowledged that a "guy" installed a GPS monitor on his leg at the jail. He said the man told him that the monitor was not working properly and that the Defendant needed to go to the probation office. The Defendant said he did not go to the probation office because he did not have transportation. He said he was homeless and did not have money to take the bus. He said that he knew "they were looking for me" and that he should avoid committing a new offense because he "was on the run for [a] probation violation." He said that, because he was homeless, he had no way to charge the GPS monitor. He acknowledged that he removed the monitor and thought he "left it somewhere" but denied that he ever left Tennessee and went to Georgia. He acknowledged that he had a "meth bowl" on the date of the alleged incident with Ms. Lombardo but denied that he had used methamphetamine that day.

The Defendant testified that he believed Mr. Deal and Ms. Lombardo had lured him to the convenience store so they could call the police and have the Defendant arrested based on a false assault claim, while Mr. Deal and Ms. Lombardo returned to the house to steal items. The Defendant said that Mr. Deal had bragged about stealing a boat motor from the

house's yard and that "everybody was saying" that Mr. Deal was stealing. The Defendant said Mr. Deal was currently in jail for stealing a gun from a backpack in the yard of the home where the alleged incident occurred. The Defendant claimed that Mr. Deal had tried to steal his cell phone and had started "rebooting" it on the night of the alleged incident.

After receiving the evidence, the trial court recited the history of the conviction proceedings, noting that the Defendant had been in jail for "a substantial amount of time" before reaching a plea agreement with the State on December 10, 2024, pursuant to which the Defendant pleaded guilty to Class C felony aggravated burglary and, after he remained in jail until January 3, 2025, he was released on six years' probation. The court noted that the plea agreement required the Defendant to obtain a mental health evaluation and treatment, have a GPS monitor installed before he left the jail, and have no contact with the victim. The court stated that the Defendant "had always been unhoused" and that he "came to this agreement with the State" which included the conditions that he wear the GPS monitor, which had to be charged, and that he report to his probation officer. The court said that although it was "very sympathetic to [the Defendant's] ongoing challenges with finding housing, that was the situation on December 10th of 2024 when he pled; that was the situation on January 3rd of 2025 when the GPS monitor was placed."

The trial court found that the Defendant's ability to get to Georgia on the day of his release, as shown by his GPS location, was "kind of antithetical to his argument that he had no way to get to the probation office." The court found that the Defendant had not made every possible effort to get to the probation office. The court found that the Defendant knew he would have to charge the GPS monitor and that the Defendant never intended to abide by the terms of probation. The court also credited Ms. Lombardo's testimony over that of the Defendant and found that the Defendant had committed an aggravated assault of her. The court found that the Defendant violated multiple rules of probation.

Turning to the question of the consequences for the violations, the trial court ruled as follows:

When considering the appropriate consequence for those violations, the Court is fully entitled and, in fact, to consider and the court of criminal appeals has said the Court may consider whether this defendant was a good candidate for probation in the first instance, and I find that he clearly was not.

I mean, realistically [the Defendant] agreed to a host of special conditions in addition to probation on a GPS monitor that by his testimony he could never comply with. The Court tends to believe he never really intended to comply with it. Being in a status of incarceration sometimes

leads defendants to make agreements that they simply are not going to ever abide by.

But certainly the fact that he was unhoused on January 3rd, that situation had been ongoing for [the Defendant], and he was not a good candidate for probation, frankly, in this Court's opinion, at the time that the Court accepted the agreement for him to go on probation. I think that is why one of the conditions that the State insisted upon was that a GPS monitor be placed on his leg before he [left] the jail.

So accordingly, I do not feel that [the Defendant] will ever be able to comply with probation. It is evident from his testimony that . . . he feels that making a phone call is sufficient to try to comport with probation and then once you know that you're in trouble, you just stay on the run. That was his testimony. That was not my testimony. I'm not putting words in his mouth. He knew . . . he was in trouble. He knew he was on the run.

Accordingly, the Court finds that probation is no longer appropriate in this instance and the Court will order the sentence into execution.

On appeal, the Defendant does not dispute that he violated the terms of probation. He contends that the trial court abused its discretion in ordering him to serve his sentence, rather than returning him to probation conditioned upon mental health and substance abuse treatment. The State counters that the court did not abuse its discretion. We agree with the State.

"On appeal from a trial court's decision revoking a defendant's probation, the standard of review is 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." *State v. Dagnan*, 641 S.W.3d 751, 759 (Tenn. 2022). An abuse of discretion has been established when the "record contains no substantial evidence to support the conclusion of the trial judge that a violation of the conditions of probation has occurred." *State v. Delp*, 614 S.W.2d 395, 398 (Tenn. Crim. App. 1980); *see State v. Shaffer*, 45 S.W.3d 553, 554 (Tenn. 2001); *State v. Grear*, 568 S.W.2d 285, 286 (Tenn. 1978). A finding of abuse of discretion "'reflects that the trial court's logic and reasoning was improper when viewed in light of the factual circumstances and relevant legal principles involved in a particular case.'" *Shaffer*, 45 S.W.3d at 555 (quoting *State v. Moore*, 6 S.W.3d 235, 242 (Tenn. 1999)).

When a trial court determines that a defendant's probation must be revoked, the court must then decide upon an appropriate consequence. *Id.* at 757. A separate hearing is not required, but the court must address the issue on the record in order for its decision

to be afforded the abuse of discretion with a presumption of reasonableness standard on appeal. *Id.* at 757-58.

After revoking a defendant's probation for a non-technical violation, as the trial court did in the present case,¹ the trial court may return a defendant to probation with modified conditions as necessary, extend the period of probation by no more than one year upon making additional findings, order a period of confinement, or order the defendant's sentence into execution as originally entered. T.C.A. §§ 40-35-308(a), (c) (2025), -310, 311(e)(2) (2025). "In probation revocation hearings, the credibility of witnesses is for the determination of the trial judge." *Carver v. State*, 570 S.W.2d 872, 875 (Tenn. Crim. App. 1978) (citing *Bledsoe v. State*, 387 S.W.2d 811, 814 (Tenn. 1965)).

In the present case, the trial court made findings to support its revocation of probation and its decision that the Defendant should serve his sentence. As to the former, the Defendant does not dispute the court's finding that he violated the terms of probation, and the record does not preponderate against the court's determination in this regard.

Turning to the question of the appropriate consequences for the violation, the trial court found that the Defendant was not an appropriate candidate for a return to probation, noting that he had not been successful on probation even with the extra measure of the GPS monitor to facilitate the ability to monitor the Defendant due to his lack of housing. The court noted that by his own testimony, the Defendant admitted that once he was in trouble, his philosophy was to "stay on the run," rather than make any effort to comply with the terms of probation.

With regard to the Defendant's argument on appeal that he should receive substance abuse and mental health treatment while on probation, we note, first, that the Defendant did not testify or present other evidence at the hearing to show that he was motivated to participate in and would comply with such treatment. To be sure, the record reflects that the Defendant was ordered to obtain a mental health evaluation and treatment under the original terms of probation, yet he immediately failed to report for supervision, traveled to Georgia, removed his GPS monitor, and remained on the lam until he was arrested approximately four months later for the aggravated assault of Ms. Lombardo.

¹ A technical violation "means an act that violates the terms or conditions of probation but does not constitute a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation." T.C.A. § 40-35-311(g). Because the trial court found that the Defendant's violations of the rules of probation included his having committed a new felony offense – the aggravated assault of Ms. Lombardo – the statutory provisions for non-technical violations provided the range of consequences the trial court could consider.

We conclude that the trial court did not abuse its discretion in ordering the Defendant's sentence into execution. In consideration of the foregoing and the record as a whole, the judgment of the trial court is affirmed.

s/ Robert H. Montgomery, Jr.
ROBERT H. MONTGOMERY, JR., JUDGE