

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBIN G. WILLIAMS	§	
	§	No. 285, 1999
	§	
Defendant Below,	§	Court Below: Superior Court
Appellant,	§	of the State of Delaware in
	§	and for Sussex County
v.	§	
	§	Cr.A. Nos. 98-05-0600
	§	98-05-0601
STATE OF DELAWARE	§	96-05-0531
	§	94-08-0408
Plaintiff Below,	§	94-08-0409
Appellee	§	

Submitted: January 19, 2000
Decided: February 29, 2000

Before **VEASEY**, Chief Justice, **WALSH** and **HARTNETT**, Justices.

ORDER

This 29th day of February 2000, upon careful consideration of the briefs of the parties and the record, it appears to the Court that:

(1) Robin G. Williams has been on probation for a variety of offenses she committed over a five-year period, including third degree forgery, misdemeanor theft, possession of cocaine and drug paraphernalia, and several violations of probation.

(2) In May 1999, Williams' probation officer requested a violation of probation ("VOP") hearing and recommended revocation of Williams' probation, alleging that her behavior was repetitive and defiant because she had been cited three times within the previous six months for violating the special conditions of her probation.

(3) On June 14, 1999, the court held a VOP hearing, which was attended by Williams and her counsel. At the hearing, the State offered documents and testimony showing that Williams: (a) had unexcused absences from mandatory treatment sessions; (b) failed to bring her son to specified treatment sessions as required; (c) turned in a prescription with only four of twenty pills remaining after she had been specifically advised not to take the drug due to the terms of her probation and her addiction¹; (d) avoided giving urine specimens for drug testing as required; (e) deliberately avoided her probation officer and drug counselor when they went to her house to obtain a urine specimen for drug testing; and (f) submitted urine specimens that tested positive for benzodiazepines seven times during a three month period of her probation. Williams denied the technical violations of her probation

¹ A doctor prescribed the drug Percoset, a painkiller, for Williams after she fell from a ladder.

and offered reasons why she had missed some of her required treatment sessions. She also testified that she was not trying to avoid drug testing. The Superior Court did not find Williams' explanations to be credible and found her in violation of her probation. The court then resentenced Williams on her various convictions. Williams then filed an appeal in this Court.

(4) On appeal, Williams argues that the Superior Court abused its discretion when it revoked her probation because the court considered hearsay evidence and was not neutral and detached because it deferred to the reports of Williams' probation officer and counselors at her treatment centers. Williams alternatively argues that her due process rights were violated due to the informal nature of the VOP hearing.

(5) We conclude that Williams' arguments are without merit. Revocation of probation is an "exercise of broad discretionary power" in Delaware.² A VOP hearing may be informal or summary.³ Hearsay evidence is admissible in a VOP hearing because the rules of evidence normally applicable in a criminal trial do not apply.⁴ Although there must be some

² See *Brown v. State*, Del. Supr., 249 A.2d 269, 272 (1968).

³ See 11 Del. C. § 4334(c).

⁴ See *Brown*, 249 A.2d at 272.

competent evidence to prove the probation violation, the evidence need not establish guilt beyond a reasonable doubt.⁵ “All that is required is that the evidence and facts be such as to reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation.”⁶ Although Williams argues that the evidence against her was primarily impermissible hearsay, we conclude that there was sufficient competent evidence in the record to supplement the probation report and support the Superior Court’s finding that Williams had violated the terms of her probation. Accordingly, the court did not abuse its discretion when it revoked Williams’ probation.

(6) Williams’ argument that her due process rights were violated due to the informal nature of the hearing also fails. Williams made no objection to the nature of the hearing and did not cross-examine the State’s witnesses. Having failed to present this issue to the Superior Court, Williams has waived appellate review of this issue unless she can show that plain error occurred at the hearing and that the error affected her substantial rights.⁷ We find that the

⁵ *See id.*

⁶ *Id.*

⁷ *See* Supr. Ct. R. 8.

record demonstrates that no plain error occurred during the hearing, therefore Superior Court properly exercised its discretion in revoking Williams' probation.

(7) We conclude that this appeal is without merit. The issues raised by Williams in her opening brief clearly are controlled by settled Delaware law, and to the extent that judicial discretion is implicated, clearly there was no abuse of discretion. Therefore, this Court has concluded that the judgment of the Superior Court should be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice