

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

**STATE OF TENNESSEE v. DENISE RAE SINGH**

**Appeal from the Circuit Court for Blount County  
No. C-16074 Michael H. Meares, Judge**

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**No. E2007-02228-CCA-R3-CD - Filed October 27, 2009**

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The Defendant, Denise Rae Singh, appeals the trial court's order revoking her probation for her Class D felony conviction of facilitation of aggravated burglary and ordering her to serve her sentence in confinement. The State has filed a motion requesting that this court affirm the trial court's order pursuant to Tennessee Court of Criminal Appeals Rule 20. The State's motion is granted, and the judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed  
Pursuant to Rule 20, Tenn. Ct. Crim. App. R.**

JOSEPH M. TIPTON, P.J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., and NORMA MCGEE OGLE, JJ., joined.

Joseph Liddell Kirk, Knoxville, Tennessee (on appeal), and Raymond Mack Garner, District Public Defender (at trial), for the appellant, Denise Rae Singh.

Robert E. Cooper, Jr., Attorney General and Reporter; and John H. Bledsoe, Senior Counsel, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

According to the August 31, 2006 judgment, the Defendant was given a two-year, Range I sentence to be served on probation consecutively to another case from Knox County. A violation warrant issued on July 9, 2007, alleging that the Defendant failed to obtain employment, failed to report to her probation officer for two months, failed to give a DNA sample, was behind on payment of her probation fees, had not paid her court costs, had not followed the recommendations of her drug and alcohol assessment, and had not paid restitution.

At the revocation hearing, the Defendant's probation officer testified about her noncompliance with the terms of probation. He stated that the Defendant was discharged from the CAPP alcohol and drug program in Knox County when she quit reporting to the program. He said that he attempted to work with the Defendant to have her probation supervision transferred to Knox County or Union County. He said that he worked with her to get her into compliance in order to have the transfer approved but that the Defendant kept calling and cancelling her appointments with him because she did not have transportation. He said that in his opinion, she became frustrated and

aggravated and quit reporting altogether. He acknowledged the Defendant told him that she did not have a driver's license, that she at some point moved to Union County, and that she was caring for her younger siblings because her parents were in jail.

The Defendant testified that she was trying to take care of her three younger siblings. She said she worked "side jobs" for her uncle and obtained food stamps from her grandmother. She said she did not have a driver's license or a car and obtained rides from whomever she could. She admitted the violations alleged against her but stated that she had not been able to comply with the terms of probation due to her family obligations and her transportation difficulties. She acknowledged that after missing an appointment with her probation officer, she was "scared" and did not report again out of "ignorance." She said she did not understand the seriousness of the situation at the time but was willing to report twice a week and comply with every rule if given a second chance. She acknowledged that even when she was doing her best to comply with the terms of probation, she was not successful. She said that her father had been released from jail and that he had a car that he could use to transport her. She said that she could take the bus to drug treatment. She acknowledged that her probation sentence in a Knox County case had been revoked when she obtained new charges.

The trial court found that the Defendant had violated the terms of her probation and that her probation sentence should be revoked. The court ordered her to serve her sentence in confinement.

A trial court may revoke probation upon its finding by a preponderance of the evidence that a violation of the conditions of probation has occurred. T.C.A. § 40-35-311(e). If a trial court revokes a defendant's probation, its options include ordering confinement, ordering the sentence into execution as originally entered, returning the defendant to probation on modified conditions as appropriate, or extending the defendant's period of probation by up to two years. T.C.A. §§ 40-35-308(a), (c); -310; see State v. Hunter, 1 S.W.3d 643, 648 (Tenn. 1999). The judgment of the trial court in a revocation proceeding will not be disturbed on appeal unless it appears that there has been an abuse of discretion. State v. Williamson, 619 S.W.2d 145, 146 (Tenn. Crim. App. 1981).

The record in the present case reveals that the trial court did not abuse its discretion in revoking the Defendant's probation. The violations were undisputed. Despite the Defendant's claim that she wanted to comply with the terms of probation and was in a better situation to do so at the time of the hearing, the court was within its discretion in revoking probation where there had been a wholesale failure to comply in the past.

The State's motion for affirmance pursuant to Rule 20 is granted. The judgment of the trial court is affirmed in accordance with Rule 20 of the Rules of the Tennessee Court of Criminal Appeals.

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JOSEPH M. TIPTON, PRESIDING JUDGE