

IN THE COURT OF APPEALS OF IOWA

438

FILED

JUN 25 1985

CLERK SUPREME COURT

STATE OF IOWA,

)

Plaintiff-Appellee,

)

Filed June 25, 1985

vs.

)

TROY THOMAS CORKEN,

)

5-168
84-1155

Defendant-Appellant.

)

**Appeal from the Iowa District Court for Scott County - Margaret S. Briles,
Judge.**

**Defendant has appealed from the order revoking a deferred judgment and
probation for failure to maintain contact with his probation officer. AFFIRMED.**

**Charles L. Harrington, Chief Appellate Defender, and Raymond E. Rogers,
Assistant Appellate Defender, for the defendant-appellant.**

**Thomas J. Miller, Attorney General, and Valencia Voyd McCown, Assistant
Attorney General, for the plaintiff-appellee.**

Heard by Snell, P.J., and Hayden and Sackett, JJ.

PER CURIAM

The defendant entered a guilty plea to a charge of burglary in the second degree. He was given a deferred judgment and was placed on probation. At a later date, the State applied for a revocation of the defendant's probation, alleging that the defendant had violated the terms of his probation by repeatedly failing to meet with his probation officer. The trial court granted the State's application, revoked the defendant's deferred judgment and probation, and sentenced him to a term of imprisonment not to exceed ten years.

The defendant has appealed. He contends the trial court did not state proper and adequate reasons for revoking his deferred judgment and probation. He asserts that his failure to meet with his probation officer did not justify probation revocation and that the trial court improperly relied on the facts of the original crime, rather than on events during the probationary period.

At the hearing, the trial court gave the following reason for revoking defendant's probation and imposing a prison sentence:

THE COURT: Well, let me tell you a little bit about the defendant. When he was twenty years old, he "planned burglary with Fuller and Geary. That's just what we do, get together and choose a place to hit. We check places out with no lights, well surrounded by woods and no answer on the phone. Geary and I entered the house and took jewelry, assorted coins and guns. We couldn't lift the safe so we left it. We went to a motel and separated the stuff. I continued to want the safe so I called Burdick who had a truck and who I knew needed money." So they proceeded to go back and rip off the safe, and then—they plan it out and drive all the way to Denver, Colorado, to sell the gold coins. Don't tell me this fellow can't organize. He organized that kind of a deal. I didn't want to give him the benefit he got the first time, but I did it because it was a first offense. But it was a dangerous thing to do, and events have just demonstrated that indeed it was. Now, people don't need to think they can rip off sixteen or seventeen thousand dollars' worth of property in this county and get away with nothing but a "shame, shame." Now, he's had his chance, and he blew it. (emphasis added.)

Under Morrissey v. Brewer, 408 U.S. 471, 498, 92 S. Ct. 2593, 2604, 33 L. Ed. 2d 484, 499 (1972), the factfinder in a revocation proceeding must provide a

written statement as to the evidence relied on and reasons for revoking parole. The Iowa Supreme Court has determined that an oral statement of the findings by the factfinder, made in open court in the presence of the defendant and recorded by a court reporter, is substantially equivalent to the written report required in Morrissey. Rheuport v. State, 238 N.W.2d 770, 775 (Iowa 1976). The reasons for revocation must include more than a simple re-evaluation of the information known to the trial judge at the time of sentencing. State v. Darrin, 325 N.W.2d 110, 113 (Iowa 1982).

In revoking probation the trial court did not simply reassess prior information. Rather, a reading of the statement indicates that the court considered the sole grounds submitted by the State, the defendant's willful failure to meet with the probation officer on four occasions and failure to contact the probation officer on a fifth occasion, in reaching its conclusion that probation should be revoked. While the court referred to the original crime, the final line of the court's statement indicates that the reason for the revocation centered on the failure to meet with the probation officer. The reasons for revocation were adequately stated.

The findings of the trial court are affirmed.

AFFIRMED.