

# ARKANSAS COURT OF APPEALS

DIVISION I  
No. CACR10-500

EDWARD CHARLES SNYDER  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

Opinion Delivered MARCH 9, 2011

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT  
[NOS. CR2008-1343-1; CR2005-98-2;  
CR2004-349-2]

HONORABLE WILLIAM A. STOREY,  
JUDGE

AFFIRMED

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**RITA W. GRUBER, Judge**

Edward Snyder appeals a judgment and commitment order entered by the Washington County Circuit Court on January 25, 2010, which revoked probation in case 2008-1343-1 and revoked suspended imposition of sentence in case 2005-98-2.<sup>1</sup> Snyder contends on appeal that the court erred in modifying a sentence after it had been executed with a term of imprisonment. We disagree and affirm.

A previous judgment and commitment order in case 2005-98-2 reflects that Snyder had plead guilty to three counts of second-degree forgery and one count of theft of property.

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<sup>1</sup> The record on appeal contains the proceedings of a third case involving appellant, 2004-349-2, that was intertwined at times with the two cases reflected in the judgment and commitment order (2008-1343-1 and 2005-98-2) from which Snyder now appeals. The State informs us that the case apparently was dismissed, and Snyder does not mention it in his brief.

He was sentenced on each count to twenty-four months' imprisonment, followed by ninety-six months' suspended imposition of sentence, all to be served concurrently, and was released from prison on August 22, 2006. In case 2008-1343-1, he pleaded guilty to one count of fleeing, for which he was confined to jail for 120 days and was put on forty-eight months' probation.

On July 29, 2009, the State filed two revocation petitions. The first was a petition for revocation of suspended sentence in case 2005-98-2; in relevant part, it alleged that Snyder had violated conditions regarding the three forgeries and the theft. The second petition alleged that he had violated conditions of probation for fleeing in case 2008-1343-1. The circuit court conducted a revocation hearing on the two petitions, found that Snyder had violated conditions of his suspended imposition of sentence and of his probation, and revoked his probation and suspended imposition of sentence on all counts. Snyder appeals the resultant judgment and commitment order of January 25, 2010, which reflects his sentences of fifty months' imprisonment on the three forgery convictions, fifty months' imprisonment for theft, and seventy-two months for fleeing. The forgery sentences were to be served concurrently to one another and consecutively to the theft and fleeing sentences, for a total of 172 months.

Snyder first argues that the circuit court's decision to run consecutive sentences violated the spirit of Act 1569 of 1999, which allowed modification of an original executed sentence upon revocation. He also argues that his sentence could not be modified because his original sentence had been executed with a term of imprisonment, unlike appellate cases

involving a defendant who originally received only probation or suspended sentences. We do not agree.

Like all statutes, sentencing statutes are to be read in accordance with their plain language. *McKeever v. State*, 367 Ark. 374, 240 S.W.3d 583 (2006). Sentencing is entirely a matter of statute and must be in accordance with statutes in effect when the offense was committed. *State v. Stephenson*, 340 Ark. 229, 9 S.W.3d 495 (2000).

Codification of Act 1569 at Ark. Code Ann. § 5-4-309(f)(1)(A)–(f)(1)(B) (Supp. 2003) authorized a court to impose “any sentence . . . that might have been imposed originally” for the underlying conviction, provided that “any sentence to pay a fine or to imprisonment, when combined with any previous fine or imprisonment imposed for the same offense” should not exceed the limits originally allowed for the offense. *See also* Ark. Code Ann. § 5-4-301(d)(1)(B), (d)(2) (Supp. 2003) (permitting modification upon revocation); § 5-4-303(d) (Supp. 2003) (authorizing disposition upon revocation). Additionally,

[w]hen multiple sentences of imprisonment are imposed on a defendant convicted of more than one (1) offense, including an offense for which a previous suspension or probation has been revoked, the sentences shall run concurrently unless, upon recommendation of jury or the court’s own motion, the court orders the sentences to run consecutively.

Ark. Code Ann. § 5-4-403(a) (Supp. 2003).

The provisions of these statutes, read together, plainly authorized the circuit court to impose prison sentences and run them consecutively upon revocation, just as it could have imposed them originally. *E.g., Maldonado v. State*, 2009 Ark. 432 (making clear a circuit

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court's authority to impose sentences consecutively upon revocation). Snyder's combined terms of imprisonment, before and after revocation, resulted in sentences on each offense within the maximum allowed. Thus, the circuit court had statutory authority to impose some of the terms consecutively although Sykes had served some time in prison.

Affirmed.

PITTMAN and ROBBINS, JJ., agree.