

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1189**

State of Minnesota,
Respondent,

vs.

Stacie Rebecca Corbett,
Appellant.

**Filed April 19, 2021
Affirmed
Larkin, Judge**

Redwood County District Court
File Nos. 64-CR-18-741; 64-CR-19-268

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Jenna M. Peterson, Redwood County Attorney, Redwood Falls, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Slayton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Larkin, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the district court's revocation of her probation, arguing that the district court abused its discretion by revoking based on technical violations and because the policies favoring continued probation outweigh the need for her confinement. We affirm.

FACTS

In October 2018, respondent State of Minnesota charged appellant Stacie Rebecca Corbett with two counts of financial-transaction-card fraud and one count of theft. Corbett pleaded guilty to one count of financial-transaction-card fraud, and the remaining charges were dismissed. The district court stayed imposition of a 13-month sentence and placed Corbett on probation for five years. As a condition of probation, Corbett was required to remain law abiding.

In March 2019, the state charged Corbett with five criminal offenses, including unlawful possession of a firearm. The charges were filed after the police located Corbett, R.S. (the father of Corbett's child), and a firearm when executing a residential search warrant. Corbett was prohibited from possessing a firearm due to a prior conviction for aiding and abetting simple robbery.

Corbett pleaded guilty to unlawful possession of a firearm, and the remaining charges were dismissed. The district court imposed a 60-month prison sentence, but stayed execution of the sentence and placed Corbett on probation for seven years. That sentence

constituted a downward dispositional departure. The district court ordered Corbett to successfully complete a drug-court program as part of her probation.

Corbett admitted that by unlawfully possessing a firearm, she had violated the terms of her probation in her fraud case. As a sanction, the district court ordered Corbett to serve 30 days in jail, but it continued the stay of imposition of sentence on Corbett's fraud case. The district court made successful completion of the drug-court program a condition of Corbett's probation in the fraud case.

Corbett started the drug-court program in April 2019. On January 23, 2020, the drug court terminated Corbett from the program. The probation department filed a violation report alleging that Corbett was terminated for "multiple and ongoing violations of program rules." The report noted over a dozen drug-court violations, which occurred between August 2019 and January 2020. The report stated that the most concerning violations were Corbett's "continued dishonesty about compliance with program conditions and continued contact with [R.S.] despite multiple warnings, repeated sanctions and orders from the Court."

In February 2020, Corbett admitted that her termination from drug court violated the terms of her probation. She acknowledged that the grounds for her termination included: breaking a no-contact agreement, being "short on hours" and "meetings," failure to complete treatment requirements as directed, and unsatisfactory progress towards program completion. The district court scheduled a contested disposition hearing, but the parties agreed to written submissions in lieu of a hearing.

In arguing against execution of her prison sentences, Corbett noted that her life “unraveled” after she suffered the death of her six-month old son in 2015. She acknowledged that she had “used methamphetamine and heroin to push away her intense emotions and quickly became addicted.” She started an abusive and codependent relationship with R.S., the father of her one-year-old child. Corbett highlighted her early successes in the drug-court program, which included completing inpatient treatment and transitioning back into the community.

The district court revoked Corbett’s probation and executed Corbett’s prison sentences. This appeal followed.

DECISION

Corbett argues that the district court erred by revoking her probation because the revocation was based on a single violation—termination from drug court—and the majority of Corbett’s drug-court infractions were “technical.”

“The [district] court has broad discretion in determining if there is sufficient evidence to revoke probation and should be reversed only if there is a clear abuse of that discretion.” *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980). A district court “abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted).

Before a district court revokes a defendant’s probation, it must (1) “designate the specific condition or conditions that were violated”; (2) “find that the violation was intentional or inexcusable”; and (3) “find that [the] need for confinement outweighs the

policies favoring probation.” *Austin*, 295 N.W.2d at 250. We review de novo whether a district court made the required *Austin* findings. *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005).

As to the first two *Austin* factors, the district court revoked Corbett’s probation for failing to successfully complete the drug-court program. Corbett admitted that her termination from the program violated a condition of her probation. The district court found the violation to be intentional and inexcusable. The court noted that Corbett struggled with dishonesty in the program and that on two occasions, she violated a no-contact order imposed to prevent her from contacting R.S., who was also struggling with sobriety. The court found that Corbett’s second violation of the no-contact order was “more problematic” because the contact was discovered after a random check of Corbett’s phone and Corbett initially denied the contact. The record supports the district court’s determination that Corbett intentionally and inexcusably violated the terms of her probation.

Corbett focuses her argument on the third *Austin* factor. She asserts that the district court erred by revoking her probation because she is a “very low risk to public safety,” there are “rehabilitation options outside of prison,” and revocation is contrary to the “policies favoring probation.”

Once a district court finds an intentional or inexcusable violation of a specific probationary condition, it must “determine whether the need for confinement outweighs the policies favoring probation.” *Id.* at 606. In doing so, the district court “must balance the probationer’s interest in freedom and the state’s interest in insuring [her] rehabilitation

and the public safety.” *Id.* at 606-07 (quotation omitted). The district court must bear in mind that “the purpose of probation is rehabilitation and revocation should be used only as a last resort when treatment has failed.” *Id.* at 606 (quotation omitted). In deciding whether to revoke probation, a district court should determine whether “confinement is necessary to protect the public from further criminal activity by the offender,” “the offender is in need of correctional treatment which can most effectively be provided if [she] is confined,” or “it would unduly depreciate the seriousness of the violation if probation were not revoked.” *Id.* at 607 (quotation omitted).

The district court determined that Corbett needed correctional treatment in a confined setting. The court reasoned that Corbett had participated in community work service and addiction programming while in jail following her termination from drug court. The court stated that her participation was “consistent with her participation in the Drug Court program” and that Corbett “most effectively engaged in treatment while in a confined (inpatient) setting.” Although that reasoning suggests that Corbett might succeed in an inpatient-treatment program outside of a correctional facility, Corbett acknowledged that funding for inpatient treatment was unavailable and argued for “community-based *outpatient* substance abuse and mental health services.” (Emphasis added.) The district court’s finding that Corbett needed correctional treatment in a confined setting is supported by the record.

The district court also determined that not revoking probation would unduly depreciate the seriousness of the violation. The court found as follows:

[I]n light of the initial downward dispositional departure, and given the gravity and number of these violations, simply reinstating [Corbett] on probation with a correctional term would unduly depreciate the seriousness of the violation Simply stated, placing [Corbett] back on traditional probation . . . with fewer conditions and less supervision would [be] ineffective. The basis for the initial downward departure – particular suitability for treatment in the community setting – has shown to be incorrect. Probation “empties the toolbox” with Drug Court participants, and the program provides a level of supervision and accountability not found under traditional probation.

In reaching its determination, the district court was permitted to rely on the underlying downward dispositional departure. *See State v. Fleming*, 869 N.W.2d 319, 331 (Minn. App. 2015) (stating that the district court properly considered a “grant of a downward dispositional departure when deciding whether to revoke probation”), *aff’d*, 883 N.W.2d 790 (Minn. 2016). And Corbett herself acknowledged numerous grounds for her termination from drug court, including violating a no-contact agreement, being “short on hours” and “meetings,” failing to complete treatment requirements as directed, and making unsatisfactory progress towards program completion. The district court’s finding that not revoking probation would unduly depreciate the seriousness of the violation is supported by the record.

Because the record supports the district court’s determinations that Corbett needed treatment in a confined setting and that not revoking probation would unduly depreciate the seriousness of the violation, we need not consider the district court’s determination that confinement was necessary to protect the public. A district court need only rely on the existence of one of the policy bases discussed in *Modtland* to support a determination that

the need for confinement outweighs the policies favoring probation. *See Modtland*, 695 N.W.2d at 607 (using the disjunctive “or” in discussing the bases for revocation).

In conclusion, Corbett received a second chance from the district court when the court continued her stay of imposition on her fraud case even though she had been charged with a felony-level firearms offense months into her probationary term. In addition, the record shows that Corbett received many chances in drug court. Yet, she continued to violate the rules of drug court and actively and dishonestly concealed her prohibited contact with R.S. Given that the district court granted Corbett a downward dispositional departure and sent her to the drug-court program to address her chemical issues—instead of sending her to prison—after she was convicted of the felony firearms offense, we disagree that Corbett’s drug-court infractions were “technical violations.”

Although the district court’s revocation of Corbett’s probation could seem like a harsh outcome, the district court is entrusted to make such difficult decisions. Here, the district court’s decision to revoke was based on detailed findings addressing the applicable factors, and there is no basis for this court to conclude that the district court abused its discretion.

Affirmed.