

*This opinion is nonprecedential except as provided by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
A21-1283**

In the Matter of the Welfare of: E. J. M., Child.

**Filed July 5, 2022
Affirmed
Smith, Tracy M., Judge**

Itasca County District Court
File Nos. 31-JV-18-3700, 31-JV-17-2874

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant E.J.M.)

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

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Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this juvenile-delinquency case, appellant challenges the district court's order revoking appellant's continuance without adjudication for fifth-degree criminal sexual conduct and adjudicating him delinquent, arguing that the district court lost subject-matter jurisdiction over his case because the revocation proceeding was not commenced before the continuance period ended. We affirm.

FACTS

In December 2018, respondent State of Minnesota filed a delinquency petition charging appellant E.J.M., then 15 years old, with two counts of fifth-degree criminal sexual conduct in violation of Minn. Stat. § 609.3451, subd. 1(1) (2018), and one count of disorderly conduct in violation of Minn. Stat. § 609.72, subd. 1(3) (2018). On February 20, 2019, appellant pleaded guilty to the two fifth-degree criminal sexual conduct offenses. The district court ordered a continuance without adjudication for both counts “for 6 months” with the option “to extend [an] additional 6 months.” As part of the terms of the continuance, appellant was ordered to complete a residential sex-offender program at Mille Lacs Academy once a spot became available.

In June, appellant’s probation officer requested a review hearing, which occurred on August 7, before the initial continuance period ended. At the hearing, the district court reviewed an adjustment report recommending that appellant “continue on supervised probation with all terms and conditions previously imposed.” On August 12, the district court ordered that probation continue and that “[a]ll prior orders remain in full force and effect unless modified herein.” The district court did not expressly state that it was ordering a second continuance period, but it ordered that probation be continued and scheduled a review hearing for a date within the second continuance period.¹

¹ We note that a continuance period of “6 months” was an incorrect articulation of the permissible length of a continuance without adjudication. Under Minn. Stat. § 260B.198, subd. 7(a) (2018), “the court may continue the case for a period not to exceed 180 days on any one order” and has the option to continue the case “for one additional successive period not to exceed 180 days.” Under these provisions, appellant’s initial continuance period

On February 10, 2020—five days before the second continuance period ended—appellant’s probation officer filed a probation-violation report. The report alleged that appellant broke Mille Lacs Academy’s rules by sneaking an iPod and charger into the facility. At a review hearing on February 11, the district court deferred ruling on the probation violation, and on February 12 it issued an order setting a hearing for March 16, 2020, and directing that appellant remain at Mille Lacs Academy and comply with terms of probation. On February 20—five days after the second continuance period ended—the probation officer filed an “addendum” to the probation-violation report, citing a new violation of failure to complete the Mille Lacs Academy treatment program.²

Appellant moved to dismiss the delinquency petition against him, arguing that the district court’s subject-matter jurisdiction had terminated because the state did not request revocation before the 360-day continuance period ended. The district court denied appellant’s motion because the February 10 probation-violation report “was sufficient . . . to maintain the Court’s jurisdiction.”

At a contested probation-revocation hearing in June 2021, the district court considered only the probation-violation reports submitted on February 10 and 20, 2020, although additional reports had also been made. In September 2021, the district court revoked probation and adjudicated appellant delinquent. It concluded that appellant

ended on August 19 and, after the district court extended the continuance period, the second continuance period ended 180 days later, on February 15, 2020.

² The addendum incorrectly identified February 20, 2020, as the date that the continuance expired—a mistake perhaps attributable to the earlier references to a continuance period of “6 months.”

“violated the terms of his probation in the above files by bringing an unapproved electronic device and charging cord into Mille Lacs Academy; and by failing to complete sex specific inpatient treatment at Mille Lacs Academy.” This appeal follows.

DECISION

Appellant argues that the district court erred by adjudicating him delinquent because it no longer had subject-matter jurisdiction over his case. “When a statute provides the basis for the district court’s jurisdiction over the juvenile, the issue of jurisdiction is a question of law subject to de novo review.” *State v. J.E.S.*, 763 N.W.2d 64, 67 (Minn. App. 2009).

By statute, after the allegations supporting a charge are “duly proven,” and, if doing so is in the best interests of the child and not inimical to public safety, the district court “may continue the case for a period not to exceed 180 days on any one order.” Minn. Stat. § 260B.198, subd. 7(a). The district court may extend the continuance period “for one additional successive period not to exceed 180 days.” *Id.* The district court may extend the period “only with the consent of the prosecutor and only after the court has reviewed the case and entered its order for the additional continuance without a finding of delinquency.” *Id.*; *see also* Minn. R. Juv. Delinq. P. 15.05, subd. 4.

Adjudicating a child for an offense after the child has received a continuance without adjudication is a probation revocation and “must be accomplished pursuant to Rule 15.07.” Minn. R. Juv. Delinq. P. 15.05, subd. 4(E). A probation-revocation proceeding “must be commenced” within the statutorily prescribed continuance period; otherwise, “juvenile court jurisdiction over the charges terminates.” *Id.*, subd. 4(F); *see also In re*

Welfare of M.J.M., 766 N.W.2d 360, 364-65 (Minn. App. 2009) (holding that the district court lacked jurisdiction to revoke probation and adjudicate a child delinquent when the probation-violation report was filed after the continuance without adjudication expired), *rev. denied* (Minn. Aug. 26, 2009).³

Appellant makes two arguments. He first argues that the district court never extended his continuance without adjudication for a second 180-day period and therefore erred by considering either probation violation because the continuance period ended on August 19, 2019. Appellant alternatively argues that, even if the district court extended his continuance without adjudication another 180 days, the district court erred by considering the probation-violation report that was filed five days after the continuance period ended because the district court had lost jurisdiction.

A. The district court extended the continuance without adjudication.

Appellant argues that, because the district court never explicitly extended his continuance without adjudication for a second 180-day period, it lost subject-matter jurisdiction over his case when the first 180-day continuance period ended on August 19, 2019. This argument is unpersuasive.

We have held that a district court may effectively extend a continuance without adjudication despite a failure to technically comply with the precise statutory procedures for extensions. *See In re Welfare of M.A.R.*, 558 N.W.2d 274, 276 (Minn. App. 1997) (“Because the initial order contemplated a term that exceeded 90 days and allowed for an

³ When we decided *M.J.M.*, the statute and rule allowed an initial continuance of 90 days with the possibility of extending for another 90 days after review. 766 N.W.2d at 363.

extension of the term without judicial review, the order did not comply with the precise requirements of [the statute]. Nevertheless, the state agreed to the initial 180-day term as part of the plea agreement.”).

Here, the district court held a review hearing on August 7, 2019—within the initial 180-day continuance period. At that hearing, the district court accepted an adjustment report recommending continued probation. The state requested continued probation to permit appellant to complete his residential program at Mille Lacs Academy, and appellant agreed to continued probation. The district court issued a written order after that hearing, continuing probation and stating that “[a]ll prior orders remain in full force and effect unless modified therein.” The order scheduled a review hearing in November, indicating that probation was to extend beyond the first continuance period. Thus, while the district court’s written order did not explicitly identify a second 180-day probation period, it certainly provided for a second period. And the district court complied with the procedural safeguard required by statute: review by the district court before any extension of a continuance without adjudication. *See* Minn. Stat. § 260B.198, subd. 7(a). Thus, the district court extended appellant’s continuance without adjudication for a second 180-day period.

B. Because the state timely commenced revocation proceedings, the district court had continuing subject-matter jurisdiction over appellant and could consider the February 20, 2020 probation-violation report.

Appellant next argues that the district court erred by relying on the probation-violation report filed on February 20, 2020, when revoking his continuance without adjudication because it was filed after the 360-day continuance period expired. We disagree.

As noted above, a probation-revocation proceeding “*must be commenced within [the 180 or 360-day stay of adjudication period]* or district court jurisdiction over the charges terminates.” Minn. R. Juv. Delinq. P. 15.05, subd. 4(F) (emphasis added). To commence a probation-revocation proceeding, the probation officer must file “a written report showing probable cause to believe the juvenile has violated any conditions of probation.” Minn. R. Juv. Delinq. P. 15.07, subd. 1.

The February 10 probation-violation report alleging violation of Mille Lacs Academy rules commenced revocation proceedings before the continuance period ended on February 15. *See id.* Because the state timely commenced probation-revocation proceedings, the district court’s subject-matter jurisdiction over appellant did not terminate. Rather, jurisdiction continued until the district court could adjudicate the state’s allegations that appellant violated the terms of his probation. As a result, the district court could properly consider the state’s subsequent probation-violation report filed on February 20, which cited appellant’s failure to complete treatment at Mille Lacs Academy.

This decision is consistent with caselaw regarding termination of a district court’s jurisdiction. We have reversed probation revocations following a continuance without adjudication when probation officers did not timely file the initial probation-violation report supporting the revocation. *See M.J.M.*, 766 N.W.2d at 363-64. (“Under rule 15, a district court loses jurisdiction over a juvenile after the 180-day continuance period has expired, even though the juvenile did not comply with the probationary conditions.”); *In re Welfare of C.S.N.*, 917 N.W.2d 427, 433 (Minn. App. 2018) (describing the rules of juvenile-delinquency procedure as “jurisdictional”). Here, had the probation officer not

timely filed the February 10 probation-violation report, the district court's subject-matter jurisdiction over appellant would have ended on February 15, compelling us to reverse his delinquency adjudication.

But the February 10 probation-violation report *was* timely filed; therefore, the district court's subject-matter jurisdiction over appellant did not terminate. Appellant then violated another condition of his probation by failing to complete treatment. We conclude that the district court properly considered that second violation when revoking appellant's continuance without adjudication and adjudicating him delinquent.

Affirmed.