

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0696**

State of Minnesota,
Respondent,

vs.

Jodi Lynn Redford,
Appellant.

**Filed February 13, 2023
Reversed
Bratvold, Judge**

Blue Earth County District Court
File Nos. 07-CR-16-3539, 07-CR-17-3372, 07-CR-18-111

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

Pat McDermott, Blue Earth County Attorney, Mankato, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Max Brady Kittel, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gäitas, Presiding Judge; Bratvold, Judge; and Larson, Judge.

SYLLABUS

Under Minn. Stat. § 609.14, subd. 1 (2016), the district court must take two steps to initiate probation-revocation proceedings: (1) issue an order revoking the stay of execution and (2) issue a warrant to take the defendant into custody or a summons for the defendant to appear in court.

OPINION

BRATVOLD, Judge

Appellant Jodi Lynn Redford seeks review of the district court's order revoking her probation and executing her sentences for three fifth-degree controlled-substance convictions. During the terms of Redford's stays of execution, probation filed several violation reports, prompting the district court to issue warrants for Redford's arrest. Before Redford was taken into custody, her stays expired. More than six months after their expiration, the district court conducted a hearing, revoked Redford's probation, and executed her sentences.

Redford argues that the district court lacked statutory authority to revoke her probation because it did not initiate revocation proceedings within six months after the expiration of her stays of execution. During district court proceedings, respondent State of Minnesota argued that the district court had initiated revocation proceedings by issuing a warrant following a probation-violation report.

We agree with Redford. Because the district court did not initiate revocation proceedings until more than six months after Redford's stays expired, the district court lacked statutory authority to revoke Redford's probation. Thus, we reverse.

FACTS

The following summarizes the record, which includes three criminal cases involving Redford.

A. 2016 Case

In September 2016, a police officer questioned Redford about shoplifting. Redford denied having stolen merchandise but admitted to having methamphetamine in her purse. When the officer searched Redford's purse, he found a pipe with methamphetamine residue and two small baggies containing methamphetamine. The state charged Redford with a fifth-degree controlled-substance crime (possession) under Minn. Stat. § 152.025, subd. 2(1) (2016). Redford pleaded guilty, the district court accepted her plea, and on April 10, 2017, the district court sentenced Redford to 12 months and one day in prison, stayed execution for three years, and placed Redford on probation.

B. 2017 Case and First Probation-Violation Report

In August 2017, a drug-task-force agent searched the trash outside Redford's home and discovered a baggie with methamphetamine residue. The agent obtained a warrant, entered the home, and searched Redford, finding another baggie with methamphetamine residue. The state charged Redford with a fifth-degree controlled-substance crime (possession) under Minn. Stat. § 152.025, subd. 2(1).

On October 5, 2017, probation filed a violation report in Redford's 2016 case based on this new charge and requested a warrant. On October 6, the district court issued a warrant in Redford's 2016 case.

C. 2018 Case

In January 2018, two police officers recognized Redford at a gas station, confirmed that she had an outstanding warrant, and arrested her. They searched Redford and found an orange straw with methamphetamine residue. The state charged Redford with a

fifth-degree controlled-substance crime (possession) under Minn. Stat. § 152.025, subd. 2(1). Redford pleaded guilty to the 2017 and 2018 charges of fifth-degree possession, and the district court accepted the pleas.

On April 30, 2018, the district court conducted a hearing on the probation violation in the 2016 case and sentenced Redford on the 2017 and 2018 fifth-degree-possession convictions. In the 2016 case, the district court reinstated Redford's probation with the added condition that she complete the Blue Earth County drug court program. In the 2017 and 2018 cases, the district court imposed concurrent sentences of 13 months in prison, stayed execution for three years, and placed Redford on probation.

D. Second and Third Probation-Violation Reports

On November 2, 2018, probation filed a violation report in Redford's 2017 case and obtained an arrest warrant. On June 6, 2019, probation filed an addendum to the November 2018 violation report indicating that Redford's location was still "unknown" and a violation report in Redford's 2018 case containing the same allegations and a request for a warrant. The district court issued a warrant in Redford's 2018 case as well.

E. 2020 Arrest

The stay of execution in Redford's 2016 case expired on April 10, 2020.

On June 3, 2020, Redford was taken into custody on the warrants in her 2017 and 2018 cases, and she appeared before the district court the next day. The district court released Redford pending her next probation-violation hearing on August 7, but Redford did not appear, and the district court issued a warrant for her arrest. The stays of execution in Redford's 2017 and 2018 cases expired on April 30, 2021.

F. 2022 Arrest

The record is unclear, but it suggests that Redford absconded for about a year and a half. She appeared before the district court from jail on February 14, 2022. On February 18, 2022, the district court held a hearing on Redford's probation violations. Redford's attorney argued that the district court lacked subject-matter jurisdiction¹ because it failed to initiate revocation proceedings within six months after her stays of execution had expired. Noting that the district court issued warrants but did not issue an order revoking her stays of execution, Redford's attorney asked the district court to discharge and release Redford. The state argued that the district court had initiated revocation proceedings when it issued warrants for Redford's arrest. Redford's probation officer stated her concern about the district court "hav[ing] to proceed with revoking a stay when a defendant is not available to the court" and individuals on probation being able to "hide until their probation term is done and not deal with the ongoing violations."

The district court concluded that it had statutory authority to revoke Redford's stayed sentences because "warrants were issued." Redford then waived her right to a contested hearing and admitted to the probation violations in the 2016, 2017, and 2018 cases. The district court revoked probation, executed all three of Redford's sentences, and ordered them served concurrently. Redford appeals.

¹ We note that although Redford argues that the district court lacked subject-matter jurisdiction to revoke probation, we characterize Redford's argument as one of statutory authority. *See In re Civ. Commitment of Giem*, 742 N.W.2d 422, 426-29 (Minn. 2007) (distinguishing failure to comply with statutory procedures from lack of subject-matter jurisdiction).

ISSUE

Did the district court lack statutory authority to revoke Redford's probation and execute her sentences?

ANALYSIS

Redford's sole argument on appeal is that the district court lacked statutory authority to revoke her probation and execute her sentences more than six months after her stays of execution had expired because it failed to initiate revocation proceedings as provided in Minn. Stat. § 609.14, subd. 1.² The state did not file a brief with this court. Thus, the appeal is submitted for decision under Minn. R. Civ. App. P. 142.03 and is "determined on the merits." "Questions concerning the authority and jurisdiction of the [district] courts are legal issues subject to de novo review." *State v. Pflepsen*, 590 N.W.2d 759, 763 (Minn. 1999).

The district court's authority to revoke a stayed sentence is governed by Minn. Stat. § 609.14, subd. 1. Subdivision 1(a) provides that when "it appears that the defendant has violated any of the conditions of probation," a district court "may without notice revoke the stay and direct that the defendant be taken into immediate custody." Minn. Stat. § 609.14, subd. 1(a). If the term of the stay has expired since the defendant's alleged probation violation, subdivision 1(b) provides:

[T]he defendant's probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion. If

² Section 609.14 was amended in 2017. 2017 Minn. Laws ch. 95, art. 3, § 12, at 26. The amendment is not relevant here.

proceedings are initiated within this six-month period, the court may conduct a revocation hearing and take any action authorized under rule 27.04 at any time during or after the six-month period.

Id., subd. 1(b).

In her brief to this court, Redford concedes that she “violated the conditions of her probation during the term of her stay” and acknowledges that “the probation agent asked the [district] court to initiate probation revocation proceedings within six months of the expiration of the stay.” But Redford argues that the district court lacked statutory authority to revoke her probation in 2022 because the district court failed to initiate revocation proceedings within the six-month period described in subdivision 1(b). Redford contends that “the [district] court needed to issue a warrant or summons, which it did, and revoke the stays, which it did not.”

Whether a Minnesota statute authorized the district court to revoke Redford’s probation after her stays of execution had expired is a question of statutory interpretation that we review de novo. *See State v. Struzyk*, 869 N.W.2d 280, 284 (Minn. 2015). “The goal of statutory interpretation is to ascertain and effectuate the intent of the Legislature.” *State v. Henderson*, 907 N.W.2d 623, 625 (Minn. 2018). “The first step in statutory interpretation is to determine whether a statute’s language, on its face, is ambiguous,” meaning “it is susceptible to more than one reasonable interpretation.” *Id.* “If a statute is unambiguous, we apply its plain meaning.” *Id.* We “read a statute as a whole and give effect to all of its provisions.” *Id.*

The question at issue in this appeal is *how* a district court initiates probation-revocation proceedings.³ “In interpreting a particular statutory provision, [appellate courts] read the provision in context with other provisions of the same statute.” *State v. Carson*, 902 N.W.2d 441, 445 (Minn. 2017) (quotation omitted). We conclude that subdivision 1(a) unambiguously defines how a district court initiates probation-revocation proceedings, and therefore, we apply its plain meaning. *See Henderson*, 907 N.W.2d at 625 (stating that when a statute is unambiguous, we apply its plain meaning).

Under subdivision 1(a), the district court must take two steps to initiate probation-revocation proceedings: (1) issue an order revoking the stay of execution and (2) direct that the defendant be taken into immediate custody. Minn. Stat. § 609.14, subd. 1(a); *accord* Minn. Stat. § 609.14, subd. 1(c) (reiterating that “proceedings to revoke the stay” are “initiated by a court order revoking the stay and directing either that the defendant be taken into custody or that a summons be issued in accordance with paragraph (a)”). At Redford’s February 2022 probation-violation hearing, the state argued that the district court had initiated revocation proceedings when it issued warrants in response to the probation-violation reports, and the district court likewise determined it had statutory

³ This appeal raises a question of first impression, although *State v. Sagataw*, 892 N.W.2d 47 (Minn. App. 2017), considered a similar issue. In *Sagataw*, the state appealed the district court’s decision to dismiss revocation proceedings and discharge Sagataw from probation based on the district court’s conclusion that it lacked jurisdiction. 892 N.W.2d at 49. The sole issue was whether the district court “lost jurisdiction to conduct revocation proceedings because Sagataw’s stayed sentence had expired.” *Id.* at 50-51. Because the parties agreed that Sagataw’s revocation proceedings had been properly and timely initiated, we did not interpret Minn. Stat. § 609.14, subd. 1, to determine how revocation proceedings are initiated. *Id.* at 50.

authority because “warrants were issued.” We disagree. The district court failed to initiate probation-revocation proceedings because it did not issue any orders revoking the stays of execution. *See* Minn. Stat. § 609.14, subd. 1(a).

The district court correctly observed that a defendant cannot avoid execution of their sentence “by simply staying away or hiding.” Indeed, subdivision 1(c) provides that “[t]he ability or inability to locate or apprehend the defendant prior to the expiration of the stay or during or after the six-month period shall not preclude the court from conducting the [revocation] hearing.” *Id.*, subd. 1(c). But the district court must initiate revocation proceedings “within six months after the expiration of the stay” in order to “conduct a revocation hearing” after the expiration of the stay. *Id.*, subd. 1(b).

Here, the district court issued warrants in October 2017, November 2018, and June 2019—all during the terms of Redford’s stays of execution. Issuing a warrant to take a defendant into custody is not enough to initiate revocation proceedings under subdivision 1(a). Also, Redford’s stays expired on April 10, 2020, in her 2016 case and on April 30, 2021, in her 2017 and 2018 cases. The six-month period to initiate revocation proceedings ended on October 10, 2020, and October 30, 2021, respectively. Because the district court issued warrants and did not issue any orders revoking Redford’s stays by October 10, 2020, in the 2016 case or by October 30, 2021, in the 2017 and 2018 cases, it lacked statutory authority to revoke her probation on February 18, 2022. *See id.*, subd. 1.

We also address Redford’s probation officer’s concern about whether the district court could revoke a stay of execution “without the defendant being present.” A defendant’s due-process rights during probation revocation are described in *Pearson v.*

State, 241 N.W.2d 490, 492 (Minn. 1976), based on *Morrissey v Brewer*, 408 U.S. 471 (1972) (addressing parole-revocation hearings), and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973) (applying *Morrissey* to probation revocation). Under *Morrissey* and *Gagnon*, “[p]rior to a final decision revoking parole or probation, there must be an opportunity for a hearing at which a final evaluation of any contested facts is made” and the defendant has “an opportunity to be heard.” *Pearson*, 241 N.W.2d at 492. Citing *Pearson*, the comments to Minnesota Rule of Criminal Procedure 27.04 state that “an initial probable cause hearing on the probation violation report” is “not require[d],” nor is a hearing “constitutionally required if the defendant is not in custody.” Minn. R. Crim. P. 27.04 cmt.

Thus, due process does not prevent the district court from initiating probation-revocation proceedings outside the defendant’s presence. Based on a Minnesota statute and relevant caselaw, we conclude the district court may issue an order revoking a stay of execution without the defendant being present. Minn. Stat. § 609.14, subd. 1(a); *Pearson*, 241 N.W.2d at 492. We add that the same caselaw requires that the defendant have the opportunity for a hearing before the district court makes a final revocation decision. *Pearson*, 241 N.W.2d at 492.

Based on this record, we conclude that the district court lacked statutory authority to revoke Redford’s probation in the 2016, 2017, and 2018 cases. Although the district court issued several warrants before Redford’s stays of execution expired, it did not issue an order revoking the stays until well over six months after their expiration. Because the district court complied with only one of the two requirements in Minn. Stat. § 609.14,

subd. 1, for initiating revocation proceedings, it lacked statutory authority to revoke Redford's probation.

DECISION

Revocation proceedings are initiated by a court order revoking the stay of execution and issuing either a warrant to take the defendant into custody or a summons for the defendant to appear before the court. A district court is authorized to initiate probation-revocation proceedings "at any time" within six months after the expiration of a stay of execution. Although Redford admits she violated the conditions of her probation within the terms of her stays, the district court did not properly initiate probation-revocation proceedings within six months of the expiration of Redford's stays. Thus, the district court lacked statutory authority to revoke Redford's probation after her stays of execution expired.

Reversed.