

*This opinion is nonprecedential except as provided by  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  
A22-1463**

In the Matter of the Welfare of: S. S., Child.

**Filed May 22, 2023  
Reversed and remanded  
Reilly, Judge**

Blue Earth County District Court  
File No. 07-JV-21-2699

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

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

Patrick R. McDermott, Blue Earth County Attorney, Megan E. GaudetteCoryell, Assistant County Attorney, Mankato, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Reilly, Judge; and Reyes, Judge.

**NONPRECEDENTIAL OPINION**

**REILLY, Judge**

Appellant-juvenile challenges her delinquency adjudication claiming that the district court violated her due-process rights by holding a revocation hearing without sufficient notice. Because the district court did not provide sufficient notice of the hearing, we reverse and remand.

## FACTS

In August 2021, the State of Minnesota filed a delinquency petition charging S.S. with first-degree damage to property for damaging her former boyfriend's car. Under a plea agreement, S.S. admitted to the charge and the state agreed to a joint recommendation of a six-month stay, with the option to extend the continuance for another six-month period. At the disposition hearing, the district court stayed adjudication for six months, with the possibility of six more months. The district court also placed S.S. on probation subject to several probationary conditions.

In March 2022, the state filed a probation-violation report asserting that S.S. violated four conditions of probation by failing to (1) write an apology letter, (2) complete a psychological evaluation, (3) complete a mental-health screening, and (4) pay restitution. S.S. waived her right to a contested hearing and admitted the violations. The district court found that S.S. violated the terms of her probation. The district court extended the stay of adjudication until S.S.'s 19th birthday on September 24, 2022 and reinstated her probation.

In July 2022, the state filed a second probation-violation report asserting that S.S. failed to (1) complete a written apology letter, (2) complete a psychological evaluation, and (3) pay restitution. S.S. entered a denial and requested a contested hearing. On September 13, 2022, at 3:47 p.m., the district court issued a notice of hearing on the probation violation for the following morning, September 14, 2022, at 11:00 a.m. S.S.'s counsel appeared for the hearing, but S.S. did not personally appear. S.S.'s counsel informed the district court that he could not reach S.S. by phone and did not know whether S.S. received notice of the hearing. S.S.'s probation officer recommended that the district

court continue the stay of adjudication, close the file, and classify the unpaid restitution as a civil judgment. The district court instead revoked the stay of adjudication, discharged S.S. from probation, and docketed the civil judgment for the remaining restitution. S.S. appeals.<sup>1</sup>

## DECISION

The United States and Minnesota constitutions provide that no person shall be deprived of life, liberty, or property without due process of law. U.S. Const. amends. V, XIV, § 1; Minn. Const. art. I, § 7. The Due Process Clause gives rise to both substantive and procedural protections. *State v. Hill*, 871 N.W.2d 900, 906 & n.5 (Minn. 2015). Procedural due process, which is implicated here, requires notice and a meaningful opportunity to be heard. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012); *see also Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (noting that the hallmark of procedural due process is “the opportunity to be heard at a meaningful time and in a meaningful manner”) (quotation omitted)). This court reviews a due-process challenge de novo. *State v. Rey*, 905 N.W.2d 490, 494 (Minn. 2018).

S.S. argues the district court violated her procedural-due-process rights by holding a probation-revocation hearing without sufficient notice. “[A]djudication after initially granting a continuance without adjudication is a probation revocation proceeding governed by Minn. R. Juv. Delinq. P. 15.07.” *In re Welfare of J.S.H.-G.*, 645 N.W.2d 500, 504

---

<sup>1</sup> The state filed correspondence stating it was not filing a brief. When a respondent fails to file a brief, we review the matter on the merits. *See* Minn. R. Civ. App. P. 142.03 (directing that when a respondent fails to file a brief the matter is to be decided on the merits).

(Minn. App. 2002), *rev. denied* (Minn. Aug. 20, 2002). The district court may revoke a stay of adjudication based on clear and convincing evidence or the child's admission of a violation of the conditions of probation. Minn. R. Juv. Delinq. P. 15.07, subd. 4(D). At the hearing, the child "shall have the right to offer evidence, present arguments, subpoena witnesses, and call and cross-examine witnesses, provided, however, that the child may be denied confrontation by the court when good cause is shown that a substantial risk of serious harm to others would exist if it were allowed." *Id.*, subd. 4(A). "Additionally, the child shall have the right at the hearing to present mitigating circumstances or other reasons why the violation, if proved, should not result in revocation." *Id.*

S.S. claims she did not have the opportunity to exercise these rights because she did not receive notice of the hearing. S.S. requested a contested hearing on September 7, 2022. On September 13, 2022, at 3:47 p.m., the district court issued a notice of hearing for a probation-violation hearing the following morning, September 14, 2022, at 11:00 a.m. At the hearing, S.S.'s counsel said he did not know whether S.S. knew about the hearing. The district court noted it intended to go forward with the hearing because otherwise it would "lose jurisdiction" over S.S. on her upcoming 19th birthday and "if we don't revoke the stay of adjudication there would be no consequence." The district court stated:

I don't know about extending probation after [S.S.'s] 19th birthday either. That's problematic. But, you know, the one thing that remains is to revoke the stay of adjudication, and which I would do due to [her] failure to appear. And, you know, [she] should not get a benefit simply by not appearing. I realize it was short notice; on the other hand, she had to have known [a hearing] was going to be set. There is no way for [the court] to get in touch with her.

We conclude that the district court did not provide sufficient notice of the probation-violation hearing. A child may be personally served by summons directing the child to appear before the court at a specified time and place. Minn. R. Juv. Delinq. P. 25.01, subd. 1. Alternatively, a notice in lieu of summons may be mailed or electronically transmitted to the child. *Id.*, subd. 2. The district court may also “schedule further proceedings by oral notice to all persons present” at a hearing. *Id.*, subd. 3. In relation to timing, “[a] summons shall be personally served at least five (5) days before the hearing,” and “[a] notice in lieu of summons shall be mailed or electronically transmitted at least eight (8) days before the hearing.” Minn. R. Juv. Delinq. P. 25.03, subd. 4.

Here, the district court did not serve S.S. with a summons or provide oral notice of the probation-violation hearing. The district court administrator filed a notice in lieu of summons, which required an eight-day notice period. *Id.* The notice of hearing was electronically filed on September 13, 2022, setting the hearing on for the following morning. This notice, provided fewer than 24 hours before the hearing, violated rule 25.03.<sup>2</sup> Because the district court failed to provide S.S. with sufficient notice of the probation-violation hearing, we reverse and remand with instructions to vacate the revocation of S.S.’s stay of adjudication.

**Reversed and remanded.**

---

<sup>2</sup> The notice requirements outlined in rule 25.03 “may be waived by a person or by the court for good cause shown.” Minn. R. Juv. Delinq. P. 25.03, subd. 4. The district court did not determine that there was good cause to waive the notice period.