

*This opinion is nonprecedential except as provided by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
A22-1592**

State of Minnesota,
Respondent,

vs.

Wilson Lee Townsel,
Appellant.

**Filed July 17, 2023
Affirmed
Reilly, Judge**

Ramsey County District Court
File Nos. 62-CR-19-2193, 62-CR-21-1414, 62-CR-21-1528

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

John J. Choi, Ramsey County Attorney, Jeffrey A. Wald, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Larkin, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant challenges the district court's revocation of his probation for first-degree assault, arguing the district court erred because it did not adequately find that the need for

confinement outweighed the policies favoring continued probation and because the record does not support such a conclusion. We affirm.

FACTS

In 2019, appellant Wilson Lee Townsel was driving his truck with his then-girlfriend T.A.W. as a passenger. Townsel became angry, reached over T.A.W. to open the door, and pushed her out of the moving truck. T.A.W. tried to hang on to the truck while Townsel continued driving but fell onto the street. Officers later responded to a call for emergency services and found T.A.W. bleeding from her knees, ankles, and head with a large area of skin peeled back on her forehead. After being rushed to the hospital, doctors discovered she had a ruptured spleen, fractured ribs, and a collapsed lung that required emergency surgery and recovery in the intensive care unit.

Respondent State of Minnesota charged Townsel with first-degree assault and issued a no-contact order prohibiting Townsel from contacting T.A.W. Townsel entered an *Alford* guilty plea. Under the plea agreement, both parties asked the district court for a downward dispositional departure. The district court convicted Townsel of first-degree assault and stayed his 110-month prison sentence, placing him on probation for ten years. The district court imposed special conditions of his probation, which included having no contact with T.A.W. and remaining law abiding.

In March 2021, the probation department alleged that Townsel violated the conditions of his probation three times by contacting the victim in violation of the no-contact order and by failing to remain law abiding. The state charged Townsel with felony violation of a no-contact order for each incident. Townsel pleaded guilty to two of the

three charges in exchange for the third charge to be dismissed. While Townsel awaited sentencing, the probation department alleged Townsel again violated his probation based on a police report where T.A.W. told officers that Townsel forced her into his car and drove her to a gas station where she managed to escape from him.

The district court held a combined sentencing and probation-violation hearing. For Townsel's two felony violation-of-a-no-contact-order offenses, the district court stayed the execution of both a 28-month sentence and a 32-month sentence for five years and placed Townsel on probation. As part of the conditions of his probation, the district court required Townsel to serve one year in the workhouse in Ramsey County. Turning to the alleged probation violations corresponding to his first-degree assault offense, Townsel admitted to the violations. The district court ordered Townsel to serve one year in the workhouse, concurrent with the time imposed for his other cases, and continued Townsel's probation. The district court specified that Townsel must turn himself in to custody for the workhouse in July.

Townsel failed to turn himself in at the workhouse. Instead, he absconded to Georgia with his wife for around a year and failed to stay in contact with his probation agent during that time. The probation department filed a probation-violation report. In 2022, Townsel was apprehended in Minnesota on an active warrant and appeared before the district court for a probation-violation hearing. Townsel admitted that he violated the terms of his probation by failing to turn himself in to the workhouse and not contacting his probation agent while living in Georgia. The district court revoked Townsel's probation and executed his sentences on all three offenses.

This appeal follows.

DECISION

The district court has broad discretion to revoke probation and this court will reverse only if there is a clear abuse of that discretion. *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980). Before the district court revokes probation, it must conduct a “three-step analysis” and make specific findings on the *Austin* factors. *Id.* at 250. The district court 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.” *Id.* These factors require the district courts to “seek to convey their substantive reasons for revocation and the evidence relied upon” and “prevents courts from reflexively revoking probation.” *State v. Modtland*, 695 N.W.2d 602, 608 (Minn. 2005). We review whether the district court made the required findings to revoke probation de novo. *Id.* at 605.

Townsel contends the district court failed to make findings relevant to the third *Austin* factor and that the record does not support its conclusion that “the policy in favor of probation is outweighed by the need for incarceration in [Townsel’s] case.” On the third *Austin* factor, district courts balance “the probationer’s interest in freedom and the state’s interest in insuring his rehabilitation and the public safety.” *Austin*, 295 N.W.2d at 250. To make a finding on this factor, the district court considers the following subfactors and determines whether: (1) “confinement is necessary to protect the public from further criminal activity by the offender,” (2) “the offender is in need of correctional treatment which can most effectively be provided if [the offender] is confined,” or (3) “it would

unduly depreciate the seriousness of the violation if probation were not revoked.” *Modtland*, 695 N.W.2d at 607 (quotation omitted).

Townsel argues the district court failed to make proper findings on the third *Austin* factor because the district court only recited the language of the factor in a conclusory manner and failed to justify why incarceration was necessary. He also contends the district court never addressed any of the subfactors and that revoking his probation was a “reflexive reaction.”¹ We disagree. Even though the district court did not expressly identify the subfactor it relied on when it found that the need for confinement outweighed the policies favoring probation, the record shows that the district court based its revocation on the third subfactor. *See id.* (“[I]t would unduly depreciate the seriousness of the violation if probation were not revoked.”). The district court also stated its “substantive reasons for revocation” and specified the “evidence [it] relied upon” before it found the need for incarceration outweighed the policies favoring probation. *Id.* at 608. We do not need to “scour the record” to understand the district court’s rationale. *Id.*

Here, the state alleged that Townsel violated the conditions of his probation when he failed to turn himself in to custody to serve one year in the workhouse in July 2021 and failed to keep in contact with his probation agent while living in Georgia. At the probation-violation hearing, Townsel admitted to the violations and that he did not “have a good reason why [he] didn’t turn [himself] in.” The district court considered the

¹ We also disagree that the district court’s decision was “reflexive.” At the hearing, the district court paused to consider the relevant facts and explained to Townsel, “I’m putting a lot of thought into this, okay? That’s why I’m taking time here.”

recommendation of the probation department, which asked the district court to continue Townsel's probation and order him to serve a year in the workhouse as he was previously required to do.

Relevant to the third *Austin* factor, the district court acknowledged that Townsel benefitted from a downward dispositional departure on his first-degree assault offense. *See State v. Fleming*, 869 N.W.2d 319, 331 (Minn. App. 2015) (holding courts may properly consider the grant of a downward dispositional departure when deciding whether to revoke probation), *aff'd*, 883 N.W.2d 790 (Minn. 2016). And when the district court first placed Townsel on probation, it "warned [Townsel] not to come back" with probation violations.

The district court also considered "the original offense and [Townsel's] intervening conduct" as part of its analysis. *Modtland*, 695 N.W.2d at 607. Here, the district court reviewed the criminal complaint and serious circumstances of the offense. The district court observed that it was a "terrible assault" that left a "large section of [the victim's] skin peeled back from [her] skull and ble[d] profusely" together with "large bruises . . . bloody areas on her knees and ankles . . . fractured ribs, collapsed lung, [and a] ruptured spleen."

Turning to Townsel's conduct after being placed on probation, the district court considered probation's conclusion that "[Townsel] didn't develop any good track record with probation at all." The district court found that, on top of absconding to Georgia and ignoring his requirement to turn himself in to the workhouse, Townsel violated the law at least twice during probation by violating the no-contact order and accruing convictions for those offenses. The district court noted that Townsel was lucky that another judge of the district court did not execute his sentences when the judge convicted and sentenced

Townsel, placing him on probation for two felony violations of the no-contact order. We conclude that the record conveys the district court's finding that it would unduly depreciate the seriousness of Townsel's violations of failing to turn himself in, absconding to another state and failing to keep in contact with his probation officer, to not revoke probation.

As the district court made a "fact-specific record" and "convey[ed] [its] substantive reasons for revocation and the evidence relied upon," we conclude the district court made adequate findings on the third *Austin* factor. *Id.* at 608. Moreover, the district court's conclusion is well-supported by the record, and it did not abuse its discretion by revoking Townsel's probation.

Affirmed.