

*This opinion is nonprecedential except as provided by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
A24-0543**

State of Minnesota,
Respondent,

vs.

Robert Lee Stahlman,
Appellant.

**Filed December 23, 2024
Affirmed
Slieter, Judge**

St. Louis County District Court
File No. 69DU-CR-19-2272

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

Kimberly J. Maki, St. Louis County Attorney, Victoria Wanta, Assistant County Attorney,
Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sean Michael McGuire, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Reyes, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the revocation of his probation, arguing that his waiver of a contested violation hearing and subsequent admission to a probation violation was involuntary because he relied on an unfulfilled promise of the probation officer. Because

appellant did not waive a contested-probation-violation hearing based upon the probation officer's initial recommended disposition, which later changed, the district court acted within its discretion in revoking probation and executing the stayed prison sentence. Therefore, we affirm.

FACTS

In 2021, appellant Robert Lee Stahlman was convicted of third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(e) (2016). The district court stayed execution of 48 months' imprisonment and placed Stahlman on probation for seven years. In December 2023, a probation-violation report alleged that Stahlman possessed pornography, violating the conditions of his probation, and recommended that the stay of execution be vacated. During the initial probation-violation hearing, Stahlman's probation officer stated that "I told [Stahlman's public defender] that if Mr. Stahlman admitted today, I'd be changing my recommendations to 364—364 days at NERCC [Northeast Regional Corrections Center], Your Honor. I did make the referral up to NERCC last week, I'm waiting for an answer, but there's no reason they shouldn't take him." The district court reminded the parties that the "hearing [was] to determine whether there [was] going to be an admission or whether it [was] going to go to a contested hearing." Stahlman's counsel informed the district court that Stahlman intended to admit to the probation violation and requested a disposition hearing be scheduled. The district court next explained to Stahlman:

[B]ut you understand if you enter an admission, then you'll -- we can continue it for a disposition or, you know, amended kind of sentencing about what's going to happen to your

violation, but there's no guarantee. I mean, the recommendation is that you spend 364 days at NERCC and follow those recommendations. Certainly your attorney will be able to make arguments, but there's no guarantee for that. Do you understand that?

Stahlman responded, "Yes." Stahlman then admitted to knowingly violating probation by possessing pornography. The district court accepted Stahlman's admission and scheduled a disposition hearing.

During the disposition hearing, the probation officer recommended that Stahlman's probation be revoked and his prison sentence be executed. The probation officer explained that he had hoped that Stahlman would agree to a NERCC sentence, as originally contemplated but Stahlman "chose not to go that route." Ultimately, the probation officer felt that Stahlman was a risk to public safety and that "there's enough risk based on what [Stahlman] searched for to justify prison." The state also argued for execution of Stahlman's prison sentence. Stahlman argued that the two weeks he already served was a sufficient consequence but, if not, then "he would hope that NERCC [was] still on the table."

The district court revoked Stahlman's probation and executed the 48-month prison sentence. Stahlman appeals.

DECISION

District courts have "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). Before a district court may revoke an individual's probation, it must consider and make specific determinations on the three

Austin factors. *See id.* at 250. The *Austin* factors require a district court to: (1) “designate the specific condition or conditions that were violated”; (2) determine whether “the violation was intentional or inexcusable”; and (3) determine whether the “need for confinement outweighs the policies favoring probation.” *Id.*

To make a finding on the third *Austin* factor, a district court may consider three subfactors: (1) whether “confinement is necessary to protect the public from further criminal activity”; (2) whether “the offender is in need of correctional treatment which can most effectively be provided if he is confined”; or (3) whether “it would unduly depreciate the seriousness of the violation if probation were not revoked.” *State v. Modtland*, 695 N.W.2d 602, 607 (Minn. 2005). “Only one *Modtland* subfactor is necessary to support revocation.” *State v. Smith*, 994 N.W.2d 317, 320 (Minn. App. 2023), *rev. denied* (Minn. Sept. 27, 2023). “[W]hether a lower court has made the findings required under *Austin* presents a question of law, which is subject to de novo review.” *Modtland*, 695 N.W.2d at 605.

Stahlman does not dispute that the district court satisfied the *Austin/Modtland* findings before revoking his probation and executing the prison sentence. Rather, Stahlman claims that his waiver of a contested-probation-violation hearing was involuntary and, thereby, violated his procedural due-process rights.

Because probation revocations deprive individuals of their liberty, the probationer is entitled to procedural due process. *State v. Beaulieu*, 859 N.W.2d 275, 280 (Minn. 2015); *see also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973). When probation is revoked following an invalid waiver of the right to a revocation hearing, the standard remedy is to

reverse and remand for a revocation hearing. *See Modtland*, 695 N.W.2d at 608 (reversing and remanding for a “new hearing”).

A defendant may waive the right to contest an alleged probation violation and admit the violation. *State v. Xiong*, 638 N.W.2d 499, 502 (Minn. App. 2002), *rev. denied* (Minn. Apr. 16, 2002). Such a waiver of constitutional or statutory rights must conform to the usual limitations and be “knowing, intelligent, and voluntary.” *State v. Givens*, 544 N.W.2d 774, 777 (Minn. 1996). “When constitutional issues involving due process are raised, this court reviews the [district] court’s legal conclusions de novo.” *State v. Heath*, 685 N.W.2d 48, 55 (Minn. App. 2004), *rev. denied* (Minn. Nov. 16, 2004).

Stahlman claims that his waiver of his right to a contested-probation-violation hearing was involuntary, and therefore invalid, because it was premised upon the unfulfilled promise of the probation officer to recommend local jail time at NERCC rather than execution of the prison sentence. To support his argument, Stahlman directs our attention to multiple appellate cases establishing that a guilty plea is involuntary if it rests upon an unfulfilled promise. *See James v. State*, 699 N.W.2d 723, 728 (Minn. 2005) (concluding that the defendant was entitled to plea withdrawal because the plea “was induced by an unfulfilled promise”); *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989) (asserting a guilty plea may not be based on improper inducement); *State v. Kortkamp*, 560 N.W.2d 93, 95 (Minn. App. 1997) (holding that a defendant may withdraw a guilty plea when the state breaches a plea agreement), *rev. denied* (Minn. Oct. 21, 1987). We are not persuaded.

The record makes it clear that Stahlman’s waiver of a contested-probation-violation hearing was not based upon an unfulfilled promise. Stahlman was advised by the district court and his attorney prior to his admission that the district court would make the determination as to disposition and that it was not bound by the recommendation of the probation officer. There was no promise made to Stahlman. The judge confirmed with Stahlman that “if [he] enter[ed] an admission . . . the recommendation is that [he] spend 364 days at NERCC . . . but there’s no guarantee for that.” The district court asked Stahlman if he understood, Stahlman affirmed “yes,” and, with that knowledge, he decided to waive a contested hearing and admit the probation violation. Moreover, the district court has broad discretion in determining whether to revoke probation, including in situations in which all the parties and the probation department agree to do otherwise. *State v. Fortner*, 989 N.W.2d 368, 375 (Minn. App. 2023) (“The district court is not required to adopt a recommendation of the probation department when determining whether to revoke probation and order imprisonment.”). And, because the district court is not bound by agreements parties may reach when determining whether to revoke probation, the caselaw related to unfulfilled promises which cause a guilty plea to be considered involuntary, do not apply.

Additionally, the record indicates that Stahlman did not rely on the probation officer’s recommendation when deciding to admit his violation. Critically, during both hearings, Stahlman stated that he disagreed with the recommendation of the probation officer and, instead, made it clear he sought to be placed back on probation with credit for time served.

Finally, not once during the disposition hearing, upon learning of the changed recommendation of the probation officer, did Stahlman seek to withdraw his admission. Nor did he dispute the statement of his probation officer, who explained that his recommendation had changed because Stahlman did not want to be placed in the local jail for 364 days. Stahlman's waiver was therefore voluntary and we affirm.

Affirmed.