

*This opinion is nonprecedential except as provided by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
A24-1071**

State of Minnesota,
Respondent,

vs.

Shawn Michael Manton,
Appellant.

**Filed February 24, 2025
Affirmed
Ross, Judge**

Clay County District Court
File No. 14-CR-20-2529

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

Brian J. Melton, Clay County Attorney, Jackson J. Elmquist, Assistant County Attorney,
Moorhead, Minnesota (for respondent)

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

Considered and decided by Harris, Presiding Judge; Ross, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Shawn Manton, intoxicated, pulled a fake gun on a liquor-store patron and kicked a
police officer in the mouth while on probation for having drunkenly stabbed a different
victim in the back. The same district court judge who originally sentenced Manton for his

prior assault revoked his probation, citing public-safety concerns and Manton's previously having received a downward dispositional departure. Manton argues unconvincingly on appeal from his revocation that the district court abused its discretion by concluding that the need for his confinement outweighed the policies favoring probation. We therefore affirm.

FACTS

Shawn Manton stabbed his former girlfriend's acquaintance in the back with a paring knife after consuming alcoholic beverages. A jury found Manton guilty of second-degree assault with a dangerous weapon, and the district court sentenced him to 21 months in prison. The district court granted Manton a downward dispositional departure, however, staying execution of his imprisonment conditioned on probationary terms. The district court departed from the presumptive commitment to prison because of Manton's newfound sobriety, his remorse for his crime, and his family support. The district court concluded Manton's sentencing with the admonishment, "[Y]ou got a departure, so this is your break." The probationary terms included Manton's obligation to remain law abiding, abstain from consuming alcohol, and attend anger-management treatment, among other requirements.

A bit more than a year later, Manton was convicted of felony assault of a police officer, along with other crimes, in North Dakota. Manton accosted liquor-store patrons—pulling a replica handgun on one—and erratically drove his vehicle towards another car. Manton resisted his consequent arrest. He head-butted a squad car. Then he kicked a deputy in the mouth while he was being booked into jail. Manton admitted that he had consumed

alcohol preceding the episode. His probation agent responded to his new crimes by reporting the probation violation to the district court, alleging that Manton had failed to remain law abiding, failed to abstain from alcohol, and failed to complete an anger-management program.

The district court held a probation-revocation hearing. The probation agent recommended that Manton serve 15 days in jail. Manton represented himself and admitted to the violations but urged the district court to give him another chance on probation. The state asked the court to execute Manton's prison sentence. The district court judge—the same one who presided over Manton's trial and sentencing—reiterated that she had already given Manton a chance on probation. The judge revoked his probation, finding that his violations were intentional and inexcusable, observing that she had “very significant” concerns for public safety given the nature of his new convictions, and concluding that not revoking Manton's probation would unduly depreciate the seriousness of his violations.

Manton appeals.

DECISION

Manton contests the district court's probation-revocation order. We review a district court's decision to revoke probation for an abuse of discretion. *State v. Austin*, 295 N.W.2d 246, 249–50 (Minn. 1980). We see no abuse here.

Manton argues that the district court erred by finding that the need for his incarceration outweighs the policies favoring probation. This is a required finding before the district court may revoke probation. *Id.* at 250. The district court satisfies this requirement by making a revocation-supporting finding on at least one of three subfactors:

- (i) confinement is necessary to protect the public from further criminal activity by the offender; or
- (ii) the offender is in need of correctional treatment which can most effectively be provided if he is confined; or
- (iii) 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). Manton argues that the probation agent's position undermines the district court's decision on this factor, elaborating that the district court abused its discretion by not accepting or closely following the agent's intermediate-sanctions recommendation. The argument fails because, although probation agents and probationers have a "special relationship," *State v. Anderson*, 733 N.W.2d 128, 137 (Minn. 2007), the district court is not bound to follow a probation agent's recommendation as to whether to revoke probation, *State v. Fortner*, 989 N.W.2d 368, 375 (Minn. App. 2023). The district court did not abuse its discretion by not following the probation agent's recommendation.

We add that Manton's new assault conviction particularly supports the district court's decision to revoke probation on public-safety grounds. A probation violation "relevant to the crime of which [the probationer] ha[s] been convicted" is usually not a mere technical violation, which would counsel against revocation. *See State v. Smith*, 994 N.W.2d 317, 321–22 (Minn. App. 2023), *rev. denied* (Minn. Sept. 27, 2023); *State v. Johnson*, 679 N.W.2d 169, 177 (Minn. App. 2004) ("Johnson was operating a vehicle after drinking alcoholic beverages. This was precisely why Johnson was on probation."). Manton committed a felony assault after consuming alcohol while he was on probation for

having been convicted of felony assault after consuming alcohol. The district court's reasoned concerns about public safety are especially well-founded.

The district court also acted within its discretion by finding that not revoking probation here would unduly diminish the seriousness of Manton's violations. Although "[o]nly one *Modtland* subfactor is necessary to support revocation," *Smith*, 994 N.W.2d at 320, in the interest of thoroughness we also consider but reject Manton's position about the seriousness of his violation. The violation involved another alcohol-fueled felony assault despite his having been granted a dispositional departure from an executed prison sentence for materially similar behavior. The district court considered but rejected the probation agent's suggestion for an intermediate sanction, recognizing that its reason for departing previously was because of the steps Manton had taken to improve himself at that time. This history, the district court noticed, made Manton's now repeated keep-me-on-probation-so-I-can-improve-myself plea far less credible. The district court appropriately concluded that Manton's probation violations, like his underlying offense, were serious.

For these reasons, we hold that the district court acted within its discretion by deciding that the public's need for Manton's confinement outweighs the policies favoring probation and executing Manton's stayed prison sentence.

Affirmed.