

*This opinion is nonprecedential except as provided by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
A24-1630**

State of Minnesota,
Respondent,

vs.

Grant Anthony Judish,
Appellant.

**Filed July 7, 2025
Affirmed
Slieter, Judge**

Scott County District Court
File No. 70-CR-21-10126

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

Ronald Hocevar, Scott County Attorney, Elisabeth M. Johnson, Assistant County Attorney, Shakopee, Minnesota (for respondent)

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

Considered and decided by Slieter, Presiding Judge; Ede, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this appeal from the district court’s order revoking probation, appellant argues that the district court abused its discretion because its only finding in support of revocation—that maintaining him on probation would depreciate the seriousness of the

violation—was not supported by the record. Because the record supports the district court’s determination, we affirm.

FACTS

On July 30, 2021, police received a report that appellant Grant Anthony Judish violated a domestic-abuse no-contact order (DANCO) by repeatedly contacting the protected person. Respondent State of Minnesota charged Judish with violating a DANCO in violation of Minn. Stat. § 629.75, subd. 2(d)(1) (2020). On August 25, Judish pleaded guilty to the charged offense. The district court sentenced him to 18 months’ imprisonment, execution of which was stayed for five years, and placed him on probation. The relevant probation conditions included that he remain law abiding and contact probation as directed.

In January 2022, a probation-violation report alleged that Judish continued to violate the DANCO by contacting the protected person and failed to maintain contact with probation. The report noted that Judish admitted to using methamphetamine on multiple occasions. Probation recommended that he complete a chemical-use assessment and follow its recommendations.

In March 2022, Judish appeared at a probation-revocation hearing at which he admitted to the violations including, as relevant to this appeal, that he failed to maintain contact with probation. The district court allowed Judish to remain on probation but modified the terms by requiring Judish to serve 90 days in custody with credit for time already served, complete a chemical-use assessment and follow its recommendations, and complete domestic-abuse programming.

In February 2023, a second probation-violation report alleged that Judish failed to: (1) meet with probation as directed; (2) complete a chemical-use assessment and follow its recommendations; (3) complete domestic-abuse programming; (4) comply with random drug testing; and (5) remain law abiding, namely by failing to comply with the DANCO and by refraining from committing same or similar violations.

On June 2, Judish appeared for a probation-revocation hearing and denied violating probation. The district court scheduled a contested-revocation hearing on September 1. Judish failed to appear at the September hearing, and the district court continued the matter to December. Judish failed to appear at the December hearing as well, and the district court issued a warrant for his apprehension. At a bail hearing on January 30, 2024, the district court released Judish without bail and scheduled a contested-revocation hearing for March. Judish failed to appear at the March hearing, and the district court issued another warrant for his apprehension. Following his apprehension, Judish appeared for a bail hearing and the district court ordered him to remain in custody without bail until the next available contested-revocation hearing on July 18.

At the July 18 contested-revocation hearing, Judish's probation officer testified, reiterating the violations alleged in the second probation-violation report. Judish testified that he had "attempted to make contact [with probation] numerous times."

The district court found that Judish intentionally and inexcusably violated the terms of his probation "by missing [his] 63 scheduled tests, missing appointments, failing to successfully complete the group format long-term domestic abuse program[,] . . . fail[ing] to either complete the mental health evaluation or at least turn it in, [and

being] . . . unavailable for supervision since February of 2023 to effectively be supervised.” The district court found that the need for confinement outweighs the policies favoring probation because maintaining probation would unduly depreciate the seriousness of the violation. The district court revoked probation and executed Judish’s sentence.

Judish appeals.

DECISION

Judish argues that the district court’s finding that it would depreciate the seriousness of the violation if his probation were not revoked is not supported by the record. He contends that “the district court’s reliance on his alleged failure to ‘maintain contact’ as a ground for revoking” does not demonstrate that he violated the probationary condition requiring him to “contact [his] probation officer as directed” because he was only “directed” to contact probation a few times.

“The [district] court has 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). A district court “abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted). But whether the district court has made the required findings under *Austin* to revoke probation “presents a question of law, which is subject to de novo review.” *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005).

When a district court finds that a defendant has violated a condition of probation, it may continue an existing stay of imposition, impose a sentence but stay execution, impose

and execute a sentence, continue an existing stay of execution, or execute a sentence. Minn. R. Crim. P. 27.04, subd. 3(2)(b)(i)-(v). Before revoking a defendant's probation, 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." *Austin*, 295 N.W.2d at 250. These findings are known as the *Austin* factors. *Modtland*, 695 N.W.2d at 606.

In determining whether the third *Austin* factor is met, district courts consider 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 he is confined," or (3) "it would unduly depreciate the seriousness of the violation if probation were not revoked." *Id.* at 607. These considerations are known as the *Modtland* subfactors. *State v. Smith*, 994 N.W.2d 317, 320 (Minn. App. 2023), *rev. denied* (Minn. Sept. 27, 2023). "Only one *Modtland* subfactor is necessary to support revocation." *Id.*

District courts "should not assume that they have satisfied *Austin* by reciting the three factors and offering general, non-specific reasons for revocation." *Modtland*, 695 N.W.2d at 608. Rather, district courts must "create thorough, fact-specific records" and "seek to convey their substantive reasons for revocation and the evidence relied upon." *Id.* This process ensures that district courts "balance the probationer's interest in freedom and the state's interest in insuring his rehabilitation and the public safety." *Id.* at 607 (quotation omitted).

The first probation-violation report alleged that Judish failed to maintain contact with probation. At his first revocation hearing, Judish admitted to the violation and agreed that he “had [an] affirmative duty to stay in contact [with probation] and [he] didn’t do so.” The second probation-violation report again alleged that Judish failed to maintain contact with probation, noting that Judish failed to appear at scheduled meetings with probation on August 23, November 23, and December 22, 2022. Failing to appear for scheduled meetings with probation is a failure to maintain contact as directed. Judish suggests that he was not given a “directive” to attend the meetings, but the record demonstrates that he was given notice of the meetings. Judish acknowledges that “there was in fact a 16-month period” when he was “not ‘knocking on his agent’s door[,]’” but argues that “this did not violate his contact-as-directed condition.” However, the record demonstrates that Judish knew that he had an affirmative duty to stay in contact with probation. The district court’s finding that Judish failed to maintain contact with probation, thereby violating his probationary condition requiring him to contact probation as directed, is therefore supported by the record.

Judish violated probation by failing to maintain contact with probation as directed. He acknowledged that he had an affirmative duty to maintain contact with probation. Here, not revoking probation would depreciate the seriousness of the violation because the violation itself—failing to maintain contact with probation—demonstrates that Judish cannot be supervised on probation. The district court’s finding that it would depreciate the

seriousness of the violation if his probation were not revoked is therefore supported by the record.

Affirmed.