

*This opinion is nonprecedential except as provided by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
A25-1382**

State of Minnesota,
Respondent,

vs.

Devin Lee Arola Johnson,
Appellant.

**Filed April 27, 2026
Affirmed
Smith, John, Judge ***

Hubbard County District Court
File Nos. 29-CR-21-393, 29-CR-21-453

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

John Olson, Hubbard County Attorney, Park Rapids, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Larkin, Judge; and Smith,
John, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm the district court's decision to revoke appellant's probation because the record supports the district court's determination that the need for confinement outweighs the policies favoring probation.

FACTS

In March 2021, respondent State of Minnesota charged appellant Devin Lee Arola Johnson with third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(b) (2020). In April 2021, in a separate file, the state charged Arola Johnson with third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(b). The underlying files are 29-CR-21-393 (file 393) and 29-CR-21-453 (file 453), respectively. Following a guilty plea in file 393, the district court sentenced Arola Johnson to 36 months in prison, stayed for 10 years with probationary conditions. Following a guilty plea in file 453, the district court sentenced Arola Johnson to 20 months in prison, stayed for 10 years with probationary conditions.¹

The district court imposed materially identical probationary conditions in each file. Pertinent to the issues on appeal, Arola Johnson was required to:

- Complete sex-offender treatment;
- Abstain from possessing or viewing pornographic or sexually explicit material;
- Maintain contact with his probation officer;

¹ The district court imposed Arola Johnson's stayed sentence in file 453 as consecutive to the stayed sentence in file 393. In our decision in *State v. Johnson*, 999 N.W.2d 103, 105 (Minn. App. 2023), we concluded that the district court erred by imposing consecutive stayed prison sentences without stating reasons for a sentencing departure and remanded with instructions to impose concurrent stayed prison sentences.

- Cooperate with searches of property as directed by his probation officer; and
- Inform his probation officer of changes in his telephone number.

In March 2025, Arola Johnson's probation officer filed a probation-violation report in each file. The probation officer subsequently filed two addenda in each file alleging additional violations. Arola Johnson appeared for a probation-violation hearing in June 2025. The district court framed the violations in similar but slightly different terms than the violation reports and addenda, discussing that Arola Johnson violated probation by failing to complete sex-offender treatment, failing to report to jail as directed by his probation officer, failing to stay in contact with his probation officer, and possessing or using pornographic material.

Arola Johnson admitted to the violations and the district court determined them to be intentional or inexcusable. The district court explained that probation revocation was appropriate because Arola Johnson is in need of treatment which can be most effectively provided in prison. The district court executed Arola Johnson's prison sentences in both files, resulting in a 36-month prison sentence and lifetime conditional release.

DECISION

In challenging the district court's decision to revoke probation, Arola Johnson argues that the record does not support the district court's determination that the need for confinement outweighs the policies favoring probation.

A 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.” *State v. Fortner*, 989 N.W.2d 368, 374 (Minn. App. 2023) (quotation omitted). To revoke probation, a 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 need for confinement outweighs the policies favoring probation.” *Austin*, 295 N.W.2d at 250 (the *Austin* factors). Arola Johnson only challenges the district court’s analysis of the third *Austin* factor.

When applying the third *Austin* factor, the district court considers whether

(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, 606-07 (Minn. 2005) (the *Modtland* subfactors). “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). A district court may not reflexively revoke probation in response to a series of technical violations. *State v. Osborne*, 732 N.W.2d 249, 253 (Minn. 2007).

Arola Johnson argues that his failure to complete sex-offender treatment and other instances of noncompliance with probation stem from mental and physical problems, including sleep issues and suicidal thoughts. He adds that he can live with a relative who lives within walking distance of the probation office. Arola Johnson contends that, by “undervaluing these facts,” the district court abused its discretion by revoking probation.

In addressing whether the need for confinement outweighs the policies favoring probation, the district court relied primarily on the second *Modtland* subfactor in determining that Arola Johnson is in need of treatment which can be most effectively provided while imprisoned. Specifically, the district court stated that “sex offender treatment is the most important component of his probation” and that “he was late to start treatment and then terminated.” The district court added that Arola Johnson’s “dishonesty with respect to possession of the phone is the compelling factor in executing his sentences. It was a tool that he could and should have used to attend sex offender treatment and contact his probation officer. Instead, he used it to access the dark, dark world of pornography.”

Because both of Arola Johnson’s convictions involve acts of criminal sexual conduct, the record supports the district court’s characterization of sex-offender treatment as an important aspect of probation. Additionally, the record demonstrates that, while on probation, Arola Johnson was unable to successfully complete this treatment, adding support to the district court’s determination that this treatment can be most effectively provided while incarcerated. Although Arola Johnson’s argument that certain considerations may counsel in favor of extending probation is not completely without merit, it cannot be said that the district court clearly abused its discretion by revoking probation because its decision is supported by facts in the record. *See Fortner*, 989 N.W.2d at 374.

Arola Johnson additionally relies on *State v. Cottew*, 746 N.W.2d 632, 637 (Minn. 2008), in arguing that the district court may only revoke probation when rehabilitation is not possible, adding that rehabilitation was still possible and the district court did not consider whether an intermediate sanction was appropriate. *Cottew* explained that “[i]ntermediate sanctions are imposed when the district court has determined that the defendant has violated his probation but that revocation of the defendant’s probation and execution of the underlying sentence is not appropriate, at least in part, because rehabilitation is still possible.” 746 N.W.2d at 637. *Cottew* is distinguishable because it explains when an intermediate sanction may be appropriate without directly addressing what constitutes an adequate ground for revoking probation. *See id.* Arola Johnson has not cited authority interpreting *Cottew* as overruling appellate analysis of the third *Modtland* subfactor.²

Arola Johnson concludes by arguing that a de facto “life sentence” through having lifetime supervised release “is not a reasonable sanction” for his “technical violations.” He points to language from *Austin* that “[t]he decision to revoke cannot be a reflexive reaction to an accumulation of technical violations.” 295 N.W.2d at 251 (quotation omitted). However, the record demonstrates that the district court appropriately considered the third

² We addressed a similar argument—that revocation is not appropriate when rehabilitation is still possible—in our nonprecedential decision in *State v. Edberg-Anderson*, No. A25-0615, 2025 WL 3750704, at *4 (Minn. App. Dec. 29, 2025). In dispensing with this argument, we pointed to language from *Cottew* that grants district courts broad discretion in determining whether to impose an intermediate sanction. *Edberg-Anderson*, 2025 WL 3750704, at *4-5 (citing *Cottew*, 746 N.W.2d at 637).

Modtland subfactor and did not reflexively revoke Arola Johnson's probation in doing so. Accordingly, the district court acted within its discretion by revoking Arola Johnson's probation.

Affirmed.