

*This opinion is nonprecedential except as provided by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
A25-1748**

State of Minnesota,
Respondent,

vs.

Gregory Allen Halfhill,
Appellant.

**Filed May 11, 2026
Affirmed in part, reversed in part, and remanded
Connolly, Judge**

Wilkin County District Court
File No. 84-CR-24-296

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

Derek Ganzhorn, Wilkin County Attorney, Breckenridge, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Connolly, Judge; and
Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's decision to revoke his probation and execute his prison sentence. Appellant also argues that the district court erred by entering convictions for both counts of driving while impaired (DWI) of which he was found guilty

because the offenses are based on different subsections of the same criminal statute and both offenses arose from the same behavioral incident. We affirm the district court's revocation of appellant's probation, but we reverse in part and remand to the district court to correct the warrant of commitment to reflect a conviction for only one of count of DWI.

FACTS

In July 2024, respondent State of Minnesota charged appellant Gregory Allen Halfhill with felony DWI in violation of Minn. Stat. § 169A.20, subd. 1(1) (Supp. 2023) (count I), and felony DWI in violation of Minn. Stat. § 169A.20, subd. 1(5) (Supp. 2023) (count II). Following a trial on stipulated evidence pursuant to Minnesota Rule of Criminal Procedure 26.01, the district court found appellant guilty as charged. The district court then sentenced appellant to 57 months in prison with five years of conditional release on count I but stayed execution of that sentence and placed appellant on probation. The warrant of conviction, however, states that appellant was convicted of both counts of DWI.

In July 2025, approximately five months after sentencing, a probation-violation report was filed alleging that appellant failed to comply with the following conditions of his probation: (1) informing appellant's probation officer of law-enforcement contact within 72 hours; (2) completing treatment programming as recommended; and (3) refraining from alcohol use. The report alleged that, on July 3, 2025, appellant contacted his mother because he was "feeling extremely sick." Law enforcement was dispatched to appellant's residence where appellant was observed to be "significantly impaired, and unable to speak clearly." Appellant was then transported to the hospital

where he admitted to consuming alcohol, and a breath test revealed an alcohol concentration of .18.

The probation-violation report alleged that the responding police officer believed that, in addition to alcohol, appellant “may have been under the influence of other substances, due to the level of impairment.” The report also alleged that appellant was discharged from his treatment program due to this incident. And the report noted that, after appellant had been sentenced in this matter, it was discovered that appellant had pending charges in North Dakota “for a domestic assault he had been charged with, while under the influence of alcohol.” The report stated that this incident occurred in February 2025, that appellant did not report this incident to the district court prior to sentencing, and that appellant “was not honest about his sobriety at sentencing, as he had claimed sobriety” since July 2024. The report recommended revoking appellant’s probation and executing his prison sentence due to appellant’s “blatant dishonesty with the [c]ourt, along with his ongoing struggles with use of alcohol and abuse of his prescription drugs.”

At the probation-violation hearing, appellant admitted the alleged violations. The district court then found “a sufficient factual basis” for the alleged violations, that the violations “were intentional and inexcusable,” and that “the need for confinement outweighs the policies favoring probation.” The district court, therefore, revoked appellant’s probation and executed his prison sentence. This appeal follows.¹

¹ Respondent did not file a brief in this matter and we ordered that the case be determined on the merits pursuant to Minn. R. Civ. App. P. 142.03.

DECISION

I.

Appellant first challenges the district court's decision to revoke his probation and execute his prison sentence. District courts have broad discretion in determining whether there is sufficient evidence to revoke probation, and appellate courts reverse an order revoking probation only if the district court clearly abused its 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). Whether a district court made adequate findings to revoke probation under *Austin* is a question of law that we review de novo. *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005).

When a defendant violates a condition of probation, the district court may revoke probation and execute the previously stayed sentence. Minn. Stat. § 609.14, subds. 1(a), 3(1) (2024). Before revoking a defendant's probation and executing the stayed sentence, the district court must "designate the specific condition or conditions that were violated" and find "that the violation was intentional or inexcusable" and "that need for confinement outweighs the policies favoring probation." *Austin*, 295 N.W.2d at 250. 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).

Appellant argues that, in revoking his probation, the district court committed the following errors: (A) finding a violation for not completing treatment programming as recommended without a factual basis; (B) finding a violation that was not alleged; (C) “[r]elying on two violations that [the district court] did not find were intentional or inexcusable”; (D) “[f]inding that the policies favoring probation were not outweighed by a need for confinement”; and (E) “[r]evoking probation where rehabilitation had not failed.” Appellant contends that “[a]ny of these errors alone requires reversal,” but that, “[e]ven if a single error does not, the cumulative effect of the multiple errors” shows that the district court abused its discretion in revoking his probation.

A. The district court did not err in finding that appellant failed to complete treatment as recommended.

Probation violations must be proved by clear and convincing evidence. Minn. R. Crim. P. 27.04, subds. 2(1)(c)(b), 3(1). The clear and convincing standard “is met when the truth of the facts sought to be admitted is highly probable.” *State v. Miller*, 754 N.W.2d 686, 701 (Minn. 2008) (quotation omitted).

Appellant argues that the district court erred in finding that he violated the condition of his probation that he complete treatment as recommended because there “was no evidence in the record to establish” that he violated this condition. But appellant specifically admitted at the probation-violation hearing that he violated that condition. Although appellant later clarified that he “read something in the report that there was a

discharge forthcoming,” he agreed that his consumption of alcohol “would have been a violation of the terms of that treatment program.” Moreover, the probation-violation report stated that, upon receiving information that appellant was hospitalized after consuming alcohol, the treatment center “discharged” appellant “effective” July 9, 2025. Appellant’s admission at the violation hearing, in conjunction with the probation-violation report, establish that it was “highly probable” that appellant violated the condition that he complete treatment as recommended. As such, the district court did not err in finding that appellant violated this condition of his probation.

B. The district court did not find a violation that was not alleged.

Appellant also contends that he was deprived of due process because the district court found that he violated a condition of his probation that was not alleged to have been violated. We disagree. The district court stated on the record that appellant’s “failure to stay in contact with [his] probation agent is intentional and inexcusable.” Although appellant is correct that respondent did not allege that appellant failed to stay in contact with his probation agent, the district court’s statement was clearly referring to the alleged violation that appellant failed to notify probation within 72 hours if appellant had contact with law enforcement. Indeed, the record reflects that, earlier in the hearing, the district court specifically discussed the three alleged violations with appellant, none of which alleged that appellant failed to stay in contact with probation. And the record reflects that appellant admitted to each of the three alleged violations. The district court then accepted appellant’s admissions, and found that, in addition to the other two alleged conditions that were violated, appellant “violated Condition 3, requiring [him] to tell [his] probation

officer within 72 hours if [he] has contact with law enforcement.” Therefore, on this record, the district court did not find a violation that was not alleged by respondent.

C. The district court found all of appellant’s violations to be intentional and inexcusable.

Next, appellant argues that the “district court erred by revoking [his] probation when it only found that one of the three violations were intentional or inexcusable.” But this argument misconstrues the record. As addressed above, the district court specifically found that appellant admitted violating conditions 3, 11, and 12 of his probation. The district court then found that the “*violations* in this matter were intentional and inexcusable.” (Emphasis added.) The plural form of “violations” demonstrates that the district court found that all three violations were “intentional and inexcusable.”

D. The district court did not err in finding that the need for confinement outweighed the policies favoring probation.

Appellant challenges the district court’s determination with respect to the third *Austin* factor. Under this factor, district courts must 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 the third *Austin* factor, the district court considers three “*Modtland* subfactors”: 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.” *Modtland*, 695 N.W.2d at 607 (quotation omitted). Only one of the *Modtland* subfactors

is necessary to support revocation. *State v. Smith*, 994 N.W.2d 317, 320 (Minn. App. 2023), *rev. denied* (Minn. Sept. 27, 2023).

In addressing the three *Modtland* subfactors, the district court found that it “strongly” believed that the need for appellant’s confinement outweighs the policies favoring probation. The district court found first that “confinement is necessary to protect the public from further criminal activity, especially in light of the fact that there has been criminal activity that has occurred in this matter that was unknown to the Court.” The district court also found that it did not believe that appellant is “amenable to probation based on [his] long history and the current failure to be successful.” And the district court found that it “believe[d] that it would unduly depreciate the seriousness of the violation if probation was not revoked.”

Appellant argues that the “record does not establish that confinement was necessary to protect the public from further criminal activity” by appellant because the district court based its reasoning related to this subfactor on “criminal activity from [appellant’s] past” and “there was no allegation or evidence presented at the probation revocation hearing that [appellant] had been involved in any new criminal activity.” But a district court may support this subfactor by finding that probation “was not an effective or reliable deterrent of further criminal activity.” *Id.* at 321; *see also Upchurch v. State*, 184 N.W.2d 607, 608 (Minn. 1971) (contextualizing deterrent effect of probationary condition prohibiting alcohol use).

Here, we acknowledge that appellant was not charged with any new criminal offenses related to his probation violation. But a condition of appellant’s probation was

that he abstain from alcohol use, and appellant admitted that, within a few months after his sentencing, he consumed enough alcohol to register an alcohol concentration of .18. The record also indicates that, in addition to consuming alcohol, appellant was abusing prescription drugs. As such, the record clearly reflects that appellant's probationary condition that he refrain from alcohol use and drugs was not an effective deterrent.

Moreover, the record reflects that appellant has a history of drug-and-alcohol-related offenses. And the district court's reference to the North Dakota offense indicates that the district court was concerned about appellant's lack of honesty throughout the proceedings. Appellant's excessive alcohol consumption, abuse of prescription drugs, lack of honesty to the court, and criminal history related to drugs and alcohol support the district court's determination that the need for confinement is necessary to protect the public from further criminal activity. And because only one of the *Modtland* subfactors is necessary to support revocation, we need not address appellant's arguments with respect to the other two *Modtland* subfactors. *See Smith*, 994 N.W.2d at 320.

E. The district court did not abuse its discretion in revoking appellant's probation.

Finally, appellant argues at length that the "district court abused its discretion by revoking [his] probation without finding that rehabilitation had failed." We are not persuaded. At the probation-revocation hearing, the district court noted its initial reluctance to grant appellant a downward dispositional departure because the court was "very concerned" that he would not be successful. And the district court found that, despite receiving a downward dispositional departure, appellant committed multiple probation

violations in a short amount of time since his sentence. *See State v. Fleming*, 869 N.W.2d 319, 331 (Minn. App. 2015) (noting that the district court properly considered a grant of downward dispositional departure when deciding to revoke probation), *aff'd*, 883 N.W.2d 790 (Minn. 2016).

Moreover, appellant was offered treatment in conjunction with his dispositional departure but was discharged from treatment due to his continued use of alcohol. Indeed, the district court found that appellant violated his condition of probation that he complete treatment. *See Austin*, 295 N.W.2d at 251 (affirming decision to revoke probation where the defendant “ha[d] been offered treatment but . . . failed to take advantage of the opportunity or show a commitment to rehabilitation”). The district court ultimately determined that, in light of his violations, failed attempt at treatment, and criminal history, appellant is not “amenable to probation.” The district court’s findings are supported by the record and demonstrate that appellant’s attempts at rehabilitation failed. Therefore, on this record, the district court did not abuse its discretion in revoking appellant’s probation and executing his prison sentence. *See Fleming*, 869 N.W.2d at 325 (affirming the district court’s decision to revoke probation after the district court found that a defendant was not amenable to probation because he nearly exhausted all “relevant programming opportunities”).

II.

Appellant also argues that the district court erred by entering convictions for both counts of DWI. Under Minnesota law, a criminal defendant “may be convicted of either the crime charged or an included offense, but not both.” Minn. Stat. § 609.04, subd. 1

(2024). The supreme court has interpreted this section “to bar[] multiple convictions under different sections of a criminal statute for acts committed during a single behavioral incident.” *State v. Jackson*, 363 N.W.2d 758, 760 (Minn. 1985). We have applied this rule to hold that multiple convictions are barred when they are based on different subsections of section 169A and the offenses were committed during the same behavioral incident. *State v. Bonkowske*, 957 N.W.2d 437, 443-44 (Minn. App. 2021).

Following a trial on stipulated facts, the district court found appellant guilty of both charged counts of DWI. Although the district court stated on the record that it would “not be entering a sentence on Count II as it is the same incident,” the warrant of commitment states that appellant was convicted of both counts.

We “may look to the official judgment of conviction in the district court file as conclusive evidence of whether an offense has been formally adjudicated.” *Spann v. State*, 740 N.W.2d 570, 573 (Minn. 2007) (quotation omitted). Because the warrant of commitment here erroneously states that appellant was convicted of both counts of DWI, we reverse in part and remand to the district court to vacate one of the DWI convictions.

Affirmed in part, reversed in part, and remanded.