

*This opinion is nonprecedential except as provided by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
A25-2132**

State of Minnesota,
Respondent,

vs.

Nicholas Alphonzo Harris,
Appellant.

**Filed August 3, 2026
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-21-6922

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Max B. Kittel, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the revocation of his probation, arguing that the district court
abused its discretion in finding that appellant violated a condition of his probation because

it made clearly erroneous factual findings based on hearsay and on evidence that had been suppressed in a separate case. Because we see no abuse of discretion, we affirm.

FACTS

In April 2021, respondent State of Minnesota charged appellant Nicholas Alphonzo Harris with third-degree burglary and possession of burglary tools. In October 2021, appellant, whose criminal-history score was 12, pleaded guilty to third-degree burglary in exchange for a 60-month career-offender stayed prison sentence and five years of probation. Probation-violation reports were filed in May 2022, July 2023, and October 2023.

On January 11, 2025, T.G., a manager of the Billy Sushi restaurant, found that the restaurant's safe had been stolen. He called the restaurant's owner (the owner), and an online report of the theft was sent to the police. On January 16, 2025, appellant received a summons for a probation-violation hearing. A violation report was filed on the break-in at Billy Sushi alleging that appellant failed to remain law abiding by entering a building without consent and with intent to steal or commit a felony or gross misdemeanor. After a hearing on the violation, appellant was charged with one count of third-degree burglary (the new burglary). A probation-violation order for appellant's detention was filed on February 19, 2025.

Appellant moved to suppress evidence obtained via the search warrants that had been executed in the investigation of the new burglary. His trial on the new burglary was scheduled for July 8, 2025, but on the day of trial, the state dismissed the complaint without prejudice because the owner, a key witness for the state, was unavailable and the district

court suppressed certain video evidence based on its determination that a search warrant did not establish the requisite nexus between the burglary at Billy Sushi and appellant's residence. On July 16, 2025, appellant asserted a speedy seven-day demand for resolution of the probation violation and agreed to a hearing on July 29, 2025. At the hearing, the district court admitted hearsay testimony from Officer F. and received 23 exhibits. On August 1, 2025, the state filed a brief arguing that the district court should consider the video evidence that the court had suppressed in the new burglary case. At a contested-violation hearing on August 5, 2025, the district court admitted the evidence that had been suppressed.

On September 22, 2025, after the parties had filed memoranda on the issue of whether the evidence was sufficient to find a probation violation for failure to remain law-abiding, the district court concluded that the state had proved there was a probation violation. The district court revoked appellant's probation, reduced appellant's sentence to 40 months in prison, and executed the sentence, with credit for 339 days.

Appellant challenges the probation revocation, arguing that the district court erred in admitting (1) the hearsay evidence from Officer F. and (2) the video evidence that had been suppressed in the new burglary case.

DECISION

District courts in probation-revocation matters have broad discretion, and the decision to revoke will be reversed only for a clear abuse of that discretion. *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005). This court gives great deference to evidentiary rulings made during a probation-revocation hearing and will not reverse absent

an abuse of that discretion. *State v. Nowacki*, 880 N.W.2d 396, 398-99 (Minn. App. 2016).

The clear-and-convincing evidence standard is met when the truth of the fact to be proven is highly probable. *State v. Hoskins*, 943 N.W.2d 203, 209 (Minn. App. 2020).

1. Hearsay Evidence

The district court found:

There was good cause to allow Officer [F.] to provide hearsay testimony regarding the victim's report about the burglary. The victim business owner was out of the country for an extended time and thus unable to appear for the probation violation hearing. A continuance was not viable because [appellant] was (and is) being held in custody pending resolution of the violation[, having demanded a speedy revocation hearing]. Moreover, the testimony was limited to the victim's original report to police that his safe containing roughly \$20,000 had been stolen from his business and that he had video surveillance to provide officers. The victim was not an eyewitness to the crime and did not provide any statement that directly identified or incriminated [appellant]. He reported the crime to officers for the purpose of seeking help—not to convict any particular person at trial—and his report has inherent indicia of trustworthiness.

There was good cause to allow Officer [F.] to provide hearsay testimony of other officers' investigative efforts and to lay the foundation for certain exhibits consisting of materials gathered by other officers. According to the State, the other officers involved were not available on short notice for the evidentiary hearing. Officer [F.]'s testimony, for the most part, consisted of presenting items of evidence that she and other officers had gathered during the investigation, such as bank records, surveillance videos, vehicle tracking data, and telephone records. Officer [F.] gathered or was involved in gathering much of this information herself, but in some cases the material was gathered by another officer. This was mostly foundational testimony that could have been provided by the original officers. Officer [F.] was subject to cross examination regarding all of the investigative efforts. The [c]ourt found Officer [F.] credible. With the exception of exhibits 40-41 [maps purporting to show the location of

appellant's cell phone, which the [c]ourt did not consider because they lacked foundation] there is sufficient evidence to conclude the exhibits the State offered through her—which consisted primarily of video evidence and records she or other officers gathered following the burglary—are what they purport to be.

Based on the evidence, the district court found that, on the morning of the burglary:

(1) appellant was in his residence wearing the same clothes as the suspect was wearing during the burglary; (2) appellant drove his car to the Billy Sushi restaurant; (3) he went inside the restaurant, then left, and returned with an accomplice; (4) the accomplice assisted appellant in carrying a safe out of the restaurant; (5) the suspects arrived and left in appellant's car; (6) the car was less than one mile from the Billy Sushi restaurant at 8:46 a.m., 2.5 minutes after departing from the first trip to the restaurant; (7) two days after the robbery, appellant deposited \$5,000 in cash into a bank account; and (8) the shoes of the suspect in the surveillance video of the theft matched the shoes appellant was wearing when arrested.

Appellant argues that “the district court abused its discretion and made clearly erroneous findings in allowing significant and pervasive hearsay evidence,” but the “erroneous findings” he claims do not relate to appellant, the crime, or the probation violation. The findings were that: (1) the owner was still unavailable to testify at the second contested hearing, (2) there is no record as to why other officers were unavailable, and (3) there was “short notice” of the hearings.

Appellant relies on *State v. Johnson*, 679 N.W.2d 169, 174 (Minn. App. 2004) for the proposition that “a hearsay statement must be necessary and reliable for it to be

admissible without violating the accused’s right of confrontation.” Appellant argues that “the State offered no proffer or testimony . . . as to why it was ‘necessary’ to have Officer [F.] testify as opposed to [the owner, T.G.,] or any other police officer.” Appellant therefore asserts that the “‘necessary’ requirement from *Johnson* makes [it] clear that at least some information about why other witnesses could not testify must be present.”

But appellant misreads *Johnson*, which holds that “when the defendant has had ample opportunity to present evidence in a probation revocation proceeding, the rules of evidence do not preclude hearsay evidence.” *Id.* After noting that “[o]ther states . . . have concluded that hearsay evidence can be admitted in probation revocation hearings,” *Johnson* cites four cases that reach that conclusion, then states that:

In line with these cases, . . . when the defendant has had ample opportunity to present evidence in a probation revocation proceeding, the rules of evidence do not preclude admission of hearsay evidence such as a letter reporting that defendant violated the terms of probation. Affording the defendant the opportunity to present evidence ensures that the defendant can expose potential flaws in the evidence. The reliability of the hearsay evidence will be weighed against other evidence and the risk of relying on untrustworthy hearsay evidence will be greatly minimized.

Id. Thus, the issue is not the admissibility of the hearsay evidence; the issue is rather how the hearsay evidence compares or contrasts with other evidence, and how much weight should be given to it.

Moreover, as a practical matter, Officer F. was the only witness available on the day the probation-revocation hearing had to be held. Appellant, who was in custody, had invoked a speedy-hearing demand for his probation-violation hearing on July 16, 2025.

The hearing had to be scheduled within seven days under Minn. R. Crim. P. 27.04, subd. 2(4)(b) (providing the seven-day limit for those in custody), and Minn. R. Crim P. 34.01 (providing that Saturdays, Sundays and holidays are excluded when computing a time period of seven or fewer days). Appellant agreed to a July 29, 2025, hearing date to accommodate his attorneys, and the state had only one witness, Officer F., the lead investigator of the case, available on that date. The state admitted that, while there were other witnesses, the matter had been set “in as speedy a manner as we could” with the one witness who was available that afternoon. The district court fully explained why Officer F. was presenting all the evidence.

2. Surveillance Videos

In the new burglary prosecution, appellant successfully argued that the two surveillance videos taken from his residence on the day of the burglary were illegally obtained because the warrant was deficient in not establishing a nexus between appellant’s residence and the burglary, and the videos were suppressed.

To admit the videos in the probation-violation hearing, the district court relied on *State v. Martin*, 595 N.W.2d 214, 219 (Minn. App. 1999) (concluding that, while the controlled substance obtained during a police officer’s illegal search of a defendant was not admissible for the prosecution of the offense of possessing the controlled substance, that evidence was permissible at the probation revocation hearing, despite the exclusionary rule), *rev. denied* (Minn. Aug. 25, 1999). “[T]he purpose of the exclusionary rule is to deter police misconduct.” *Martin*, 595 N.W.2d at 218.

[But t]he exclusionary rule may obstruct the probation system in accomplishing its remedial purpose by (1) preventing the court from considering relevant evidence in deciding whether to revoke probation; (2) allowing [parolees] to escape the consequences of noncompliance; and (3) making courts reluctant to place defendants on probation initially, in light of the possibility that relevant evidence may be unavailable in a probation revocation proceeding. Because the officer did not know Martin's probationary status, the marginal deterrent effect of the exclusionary rule is outweighed by these costs.

Id. at 219; *see also State v. Smith*, 652 N.W.2d 546, 549 (Minn. App. 2002) (citing *Martin* for the proposition that the exclusionary rule “should be used only when its deterrent value outweighs its social costs”), *rev. denied* (Minn. Jan. 29, 2003).

Appellant argues that *Martin* is distinguishable because, in that case, the police officer who searched the defendant illegally did not know the defendant was on probation, while Officer F. did know that appellant was on probation. But that distinction is irrelevant. The officer in *Martin* illegally arrested the defendant for careless driving although he should have issued a citation. *Id.* at 215-16. Thus, the cocaine found during the arrest was suppressed under the exclusionary rule in the prosecution for possession of a controlled substance, because there had been police misconduct in obtaining it, but it was admitted in the probation-violation proceeding. *Id.* at 216. “The exclusionary rule ha[d] already been applied in the criminal proceeding against Martin, and, presumably, excluding the cocaine and dismissing the possession charge against Martin has had the intended deterrent effect on police misconduct.” *Id.* at 219.

Here, the defect in the search warrant was the result of officers inadvertently omitting from the search-warrant affidavit relevant information they already had that

provided a nexus between appellant's residence and the burglary. The district court reasoned that:

given that the error on the part of the officers who drafted the search warrant seems to be an omission of . . . some important information that they already possessed in the warrant application, I don't think there's a . . . meaningful deterrence benefit in me suppressing the evidence here in these [probation violation] proceedings.

Put simply, because the officer misconduct here was minimal, the marginal deterrent effect of the exclusionary rule is outweighed by the costs of preventing the district court from considering relevant evidence in deciding whether to revoke appellant's probation, allowing appellant to escape the consequences of noncompliance, and making courts reluctant to place defendants on probation initially, in light of the possibility that relevant evidence may be unavailable in a revocation proceeding. *See id.*

Affirmed.