

*This opinion is nonprecedential except as provided by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
A26-0104**

State of Minnesota,
Respondent,

vs.

Mykell Steffon Burton,
Appellant.

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

Anoka County District Court
File No. 02-CR-19-8414

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

Brad Johnson, Anoka County Attorney, Carl E. Erickson, Assistant County Attorney,
Anoka, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the district court's revocation of his probation, arguing that
the district court (1) considered a probation violation outside the scope of this court's

remand order, (2) violated his right to a speedy probation-revocation hearing, and (3) failed to analyze fully the third *Austin*¹ factor. We affirm.

FACTS

In December 2021, appellant Mykell Steffon Burton pleaded guilty to first-degree aggravated robbery and first-degree burglary. In January 2022, the district court sentenced Burton to 136 months in prison but stayed execution of the sentence and placed Burton on supervised probation for five years. The probationary conditions required Burton to: (1) remain law-abiding; (2) complete an anger-management program; and (3) abstain from alcohol and mood-altering chemicals and submit to testing to verify compliance.

In February 2023, respondent State of Minnesota charged Burton with two counts of criminal sexual conduct. That same month, a probation agent submitted a violation report alleging that Burton had violated the three probationary conditions. The district court put the probation-violation matter “on hold” until the criminal-sexual-conduct case was resolved.

In March 2024, Burton pleaded guilty to an amended charge of fifth-degree criminal sexual conduct. That same month, a probation-revocation hearing was held. At the hearing, Burton stated that he would admit to the violations of failing to complete anger management and failing to abstain from mood-altering chemicals, but would not admit to the failure-to-remain-law-abiding allegation. Burton stated that he intended to withdraw his plea in the criminal-sexual-conduct case. The state replied that, in the interest of

¹ *State v. Austin*, 295 N.W.2d 246 (Minn. 1980).

judicial economy, it would strike the failure-to-remain-law-abiding violation. The district court agreed and stated that it would strike that allegation. Burton admitted to the remaining two violations. The district court revoked Burton's probation and executed his sentence.

In May 2024, Burton appealed his criminal-sexual-conduct conviction. He later appealed the revocation of his probation.

In February 2025, this court reversed and remanded the district court's probation-revocation order, concluding that the presiding judge made comments that called into question the judge's impartiality, which disqualified the judge from presiding over the matter. *State v. Burton*, No. A24-0932, 2025 WL 586228, at *4 (Minn. App. Feb. 20, 2025) (order op. (*Burton I*)). This court "reverse[d] the district court's decision to revoke Burton's probation and remand[ed] for a new probation revocation hearing before a different district court judge as assigned by the chief judge." *Id.*

Thereafter, for various reasons, the new probation-revocation hearing was rescheduled several times. During this time, this court affirmed Burton's criminal-sexual-conduct conviction. *State v. Burton*, No. A24-0870 (Minn. App. May 5, 2025) (*Burton II*), *rev. denied* (Minn. July 30, 2025).

The new probation-revocation hearing was held in October 2025. The parties and the district court agreed that the hearing would involve all three of the 2023 probation-violation allegations.

At the conclusion of the hearing, the district court revoked Burton's probation. The district court found that Burton had multiple tampered-with, missed, and positive drug tests

and had been convicted of criminal sexual conduct. Based on these findings, the district court determined that Burton had violated the conditions of his probation to abstain from mood-altering chemicals and remain law-abiding. The district court expressed that Burton’s continual positive drug tests since 2022 were concerning and that the new conviction, “just one year” after the court had placed Burton on probation for serious charges, was significant. The district court determined that these “violations were intentional or inexcusable,” that “[t]he need for confinement outweighs the policy favoring probation,” that confinement was appropriate to protect the public—“most demonstrated by the new charge being [an] offense date within a year of [Burton’s] . . . sentence[] on the original charge”—and that “anything less than a revocation would significantly discount the seriousness of the violations themselves.”

This appeal followed.

DECISION

Scope of Probation Violations Considered

Burton claims that the district court exceeded the scope of this court’s remand order by considering the alleged probation violation of failing to remain law-abiding. Burton argues that, because the district court exceeded the scope of remand instructions in *Burton I*, it lacked subject-matter jurisdiction to consider this allegation. We review Burton’s claim on the merits.²

² The state argues that, because Burton did not object to the district court’s consideration of all three allegations, this issue was forfeited. Burton argues that, because the district court lacked subject-matter jurisdiction, the argument is not forfeited. Because our consideration of the argument on its merits does not affect our decision to affirm, we do

“Minnesota’s district courts are courts of general jurisdiction that . . . have the power to hear all types of civil and criminal cases.” *State v. Schnagl*, 859 N.W.2d 297, 301 (Minn. 2015). “Subject-matter jurisdiction is the court’s authority to hear the *type of dispute* at issue and to grant the type of relief sought.” *Seehus v. Bor-Son Const., Inc.*, 783 N.W.2d 144, 147 (Minn. 2010) (emphasis added). “Subject-matter jurisdiction is a question of law that we review de novo.” *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019).

Remand orders may be “general” or “limited.” *State v. Thompson*, 942 N.W.2d 350, 354 (Minn. 2020). “Limited remands explicitly outline the issues . . . and create a narrow framework within which the district court must operate. General remands . . . give district courts authority to address all matters as long as remaining consistent with the remand.” *Id.* at 353 (quotation omitted). Whether our remand in *Burton I* was general or limited is reviewed de novo. *Id.* at 354. A district court’s determination of the scope of remand instructions is reviewed for an abuse of discretion. *Id.* “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. Nyonteh*, 24 N.W.3d 271, 282 (Minn. 2025) (quotation omitted).

Applying these principles, we conclude that the district court had subject-matter jurisdiction over the probation-violation allegation. This court’s remand order required “a new probation-revocation hearing before a different district court judge.” *Burton I*,

not reach the forfeiture issue and assume without deciding that the argument is not forfeited.

2025 WL 586228, at *4. The remand order did not limit the allegations to be addressed, nor did it create a narrow framework within which the district court must operate. As such, it was a general remand. The district court determined that, because the remand required an entirely new hearing, voiding the previous hearing and any decisions that had occurred within that hearing, it could consider all three of the 2023 probation-violation allegations. All parties agreed to this interpretation. The district court neither erred nor abused its discretion by considering the failure-to-remain-law-abiding allegation at the new probation-revocation hearing.

Speedy Probation-Revocation Hearing

Burton next argues that the district court violated his due-process rights by failing to provide a speedy probation-revocation hearing. Due-process claims not raised at a probation-revocation hearing are waived. *See Austin*, 295 N.W.2d at 252 (“Since the appellant did not raise [the due-process] issue at the revocation hearing, the issue is waived.”). Because the record reflects that Burton neither asserted a due-process right to a speedy probation-revocation hearing on remand nor objected to or argued that his right to due process was violated because of the delay in holding the new hearing, he has forfeited the right to raise the claim now.

Interest in Rehabilitation and Avoiding Confinement

Lastly, Burton argues that the district court erred by revoking probation without adequately considering whether the need for confinement outweighed the policies favoring rehabilitation. Minnesota appellate courts review whether a district court made the required findings to revoke probation de novo. *State v. Modtland*, 695 N.W.2d 602, 605

(Minn. 2005). But a district court’s determination that “there is sufficient evidence to revoke probation” is reviewed for an abuse of discretion. *Id.*

To revoke probation, a district court must find that (1) the defendant violated a probationary condition, (2) the violation was “intentional or inexcusable,” and (3) the “need for confinement outweighs policies favoring probation.” *Austin*, 295 N.W.2d at 250.

In evaluating the third factor, a district court should consider the following 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.

Modtland, 695 N.W.2d at 607 (quotation omitted). “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).

Burton asserts that the district court merely recited the third *Austin* factor “without conducting a meaningful weighing of the interest of confinement against the interests of . . . probation.” Further, Burton argues that the district court analyzed only the need for confinement and skipped considering the policies favoring probation. We disagree.

In reviewing the record, we conclude that the district court conducted a proper, thorough, and substantive analysis. The district court made specific findings regarding Burton’s multiple tampered-with, missing, and positive drug tests and his new offense occurring “just one year” after the court placed him on probation. The district court then determined that these facts established that confinement was necessary to protect the public

from further criminal activity and that failing to revoke probation would “significantly discount the seriousness of the violations themselves.” This shows that the district court properly considered whether probation was effective and whether confinement outweighed the policies favoring probation. *See id.* at 321 (rejecting a challenge to the district court’s findings on the third *Austin* factor because the court’s detailed factual findings implicitly demonstrated that probation had not been an effective or reliable deterrent to further criminal activity). As such, the district court conducted a proper and substantive analysis of the third *Austin* factor.

Affirmed.