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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0311**

State of Minnesota,
Respondent,

vs.

James Robert Conway,
Appellant.

**Filed September 21, 2026
Affirmed
Schmidt, Judge**

Olmstead County District Court
File Nos. 55-CR-19-8515, 55-CR-21-7156

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

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

Considered and decided by Bratvold, Presiding Judge; Ede, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant James Robert Conway appeals from the district court's order revoking probation on two underlying convictions for fifth-degree assault and felony domestic assault. We affirm.

FACTS

In 2020, respondent State of Minnesota charged Conway with one count of fifth-degree assault, and a jury found him guilty of the offense following trial. The district court stayed imposition of sentence and placed him on probation for five years.

In 2021, the state charged Conway with one count of felony domestic assault, and a jury found him guilty of the offense following trial. The district court sentenced Conway to 24 months in prison, stayed execution of the sentence, and placed him on probation for five years. Because of this conviction, the county filed a probation-violation report in Conway's 2020 case. After Conway admitted to the violation, the district court vacated the stay of imposition, imposed a sentence of 21 months in prison, stayed execution of the sentence, and continued Conway's probation under the same terms.

In October 2025, the county filed a probation-violation report in Conway's 2020 and 2021 cases, alleging that Conway: (1) engaged in assaultive behavior; (2) failed to remain law abiding; and (3) possessed a firearm. These violations were based on two new complaints: one alleging charges of malicious punishment of a child and fifth-degree assault; and the other alleging charges of firearm/ammunition possession, second-degree assault, fifth-degree assault, and damage to property.

In November 2025, Conway pleaded guilty to the charges of fifth-degree assault (gross misdemeanor) and second-degree assault (felony).

At Conway's request, the district court held a contested probation revocation hearing. At the hearing, Conway testified about the incidents from the two 2025 complaints. Based on his testimony, the district court determined that Conway violated

the terms of his probation by hitting his daughter with a stick. The district court took judicial notice of the guilty pleas and found that Conway failed to remain law abiding. The district court found that Conway had a “very assaultive history,” yet “received two downward departures for very violent behavior.” The court detailed the first and second assault-related offenses, then found that Conway’s assaultive behavior escalated towards his daughter when he hit her with a stick in front of others. The district court noted that Conway had completed “significant programming” in April 2025, before he assaulted his daughter in September 2025. The court found that confinement of Conway was necessary to protect the public and not revoking his probation would “unduly depreciate the seriousness of the violation . . . because [Conway was] on a downward [dispositional] departure” when the new assaultive behavior occurred. The district court revoked Conway’s probation in his 2020 case and his 2021 case and executed the sentences.

Conway appeals.

DECISION

Conway argues the district court abused its discretion by revoking his 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).

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.” *Id.* at 250. Conway challenges only the district court’s analysis of the third *Austin* factor.

When applying the third *Austin* factor, a district court must consider 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). “Only one *Modtland* subfactor is necessary to support revocation.” *State v. Smith*, 994 N.W.2d 317, 320 (Minn. App. 2023), *rev. denied* (Minn. Sep. 27, 2023).

District courts cannot simply recite the three subfactors and offer “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). We review de novo whether the district court made the required *Austin* findings. *Id.* at 605.

Here, when assessing the third *Austin* factor, the district court determined that two of the *Modtland* subfactors were satisfied: that confinement was necessary to protect the public from further criminal activity, and that it would unduly depreciate the seriousness of the violation if Conway’s probations were not revoked. The district court reasoned that Conway was on probation when he received the second departure for assaultive behavior, that Conway was provided with significant programming which ended in April 2025, and then he engaged in new assaultive behavior towards his daughter in September 2025. The district court also determined that revocation was necessary because of Conway’s “very

assaultive history”; the fact that he received two prior downward dispositional departures; his prior assaultive history resulted in head injuries to two separate individuals; and that his assaultive behavior escalated towards his daughter.

Conway argues that the district court’s findings are perfunctory and that the court failed to consider his positive performance on probation, completion of programming, and employment. Conway also argues that the district court failed to address the second *Modtland* subfactor and revoked probation without explaining why treatment or other programming was not possible if probation was not revoked. We are not persuaded.

The district court needed to find that one *Modtland* subfactor was satisfied in order to revoke Conway’s probation. *Smith*, 994 N.W.2d at 320. This requirement was satisfied because the district court relied on the first and third *Modtland* subfactors in its probation-revocation decision. The district court did recognize Conway’s successful completion of programming in April 2025, but also found that Conway’s assaultive behavior “escalated” towards his daughter a few months after he completed programming. Accordingly, the district court appropriately addressed the *Modtland* subfactors.

In addition, the district court found that the third *Austin* factor favored revocation because the record demonstrated Conway’s violence was escalating despite prior downward dispositional departures and the opportunity for rehabilitation. The district court detailed the escalating assaultive behaviors in the three assault incidents. The district court’s decision to revoke Conway’s probation is well-supported by the record and does not constitute an abuse of discretion.

Affirmed.