

NOT DESIGNATED FOR PUBLICATION

No. 120,280

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

SHAWNA MICHELLE SIDDONS,
Appellant.

MEMORANDUM OPINION

Appeal from Shawnee District Court; CHERYL A. RIOS, judge. Opinion filed June 7, 2019.

Affirmed.

Submitted by the parties for summary disposition pursuant to K.S.A. 2018 Supp. 21-6820(g) and (h).

Before MALONE, P.J., LEBEN and POWELL, JJ.

PER CURIAM: Shawna Michelle Siddons appeals the district court's decision to impose an intermediate 120-day prison sanction after she stipulated to violating the terms and conditions of her probation. We granted Siddons' motion for summary disposition pursuant to Supreme Court Rule 7.041A (2019 Kan. S. Ct. R. 47). The State did not file a response. After a review of the record, we affirm.

Pursuant to a plea agreement with the State, Siddons pled guilty to a number of serious offenses in three consolidated cases, offenses which included aggravated battery, battery, burglary, forgery, and theft. On March 18, 2016, the district court sentenced

Siddons to an overall sentence of 24 months in prison but placed her on probation from that sentence for a period of 24 months.

Just a few months into her probationary period, the State sought to revoke her probation on the grounds that she had failed to report to her probation officer as ordered. At a probation violation hearing on January 23, 2017, Siddons stipulated to the violations, and the district court imposed a three-day jail sanction. On March 21, 2017, the State again sought to revoke Siddons' probation, alleging that she had repeatedly failed to report to her probation officer. Siddons stipulated to the violations, and the district court extended her probation for 24 months. The district court also imposed a 30-day jail sanction.

For a third time, on July 17, 2017, the State sought to revoke Siddons' probation, again alleging that she had failed to report to her probation officer on a number of occasions. Siddons stipulated to the violations, and the district court, specifically noting that Siddons was using up her options and opportunity to successfully complete probation, imposed a 120-day prison sanction. Siddons now appeals from this order.

Siddons' sole argument on appeal is that the district court abused its discretion by imposing the 120-day prison sanction. Once a probation violation has been established, the decision to modify the terms of probation is within the sound discretion of the district court. See *State v. Skolaut*, 286 Kan. 219, 227-28, 182 P.3d 1231 (2008). Judicial discretion is abused if the action "(1) is arbitrary, fanciful, or unreasonable, i.e., if no reasonable person would have taken the view adopted by the trial court; (2) is based on an error of law . . . ; or (3) is based on an error of fact." *State v. Jones*, 306 Kan. 948, Syl. ¶ 7, 398 P.3d 856 (2017). Siddons bears the burden to show an abuse of discretion by the district court. See *State v. Rojas-Marceleno*, 295 Kan. 525, 531, 285 P.3d 361 (2012).

A district court's discretion concerning the imposition of probation violation sanctions is limited by the intermediate sanction provisions outlined in K.S.A. 2018 Supp. 22-3716. Significantly, a district court is required to impose graduated intermediate sanctions before revoking an offender's probation. See K.S.A. 2018 Supp. 22-3716(c); *State v. Huckey*, 51 Kan. App. 2d 451, 454, 348 P.3d 997, *rev. denied* 302 Kan. 1015 (2015). Intermediate sanctions include a 2-day or 3-day sanction of confinement in a county jail, a 120-day prison sanction, or a 180-day prison sanction. K.S.A. 2018 Supp. 22-3716(c)(1)(B), (C), (D). Under these limitations, and with some exceptions inapplicable here, the district court may impose a 120-day prison sanction only after a 2- or 3-day jail sanction has been previously imposed. K.S.A. 2018 Supp. 22-3716(c)(1)(C).

Here, it is undisputed that Siddons violated the terms of her probation and that the district court had previously imposed not only the prerequisite 3-day intermediate jail sanction, but also an additional 30-day jail sanction. Therefore, the district court had the legal authority to impose the 120-day prison sanction. As Siddons fails to provide us with any rationale demonstrating that *no* reasonable person would have taken the view of the district court, we conclude the district court did not abuse its discretion in imposing a 120-day intermediate prison sanction.

Affirmed.