

NOT DESIGNATED FOR PUBLICATION

No. 123,756

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

MICHAEL D. FERGUSON,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; JEFFREY SYRIOS, judge. Opinion filed October 29, 2021.
Affirmed.

Submitted by the parties for summary disposition pursuant to K.S.A. 2020 Supp. 21-6820(g) and (h).

Before GREEN, P.J., CLINE, J., and BURGESS, S.J.

PER CURIAM: Michael D. Ferguson pled guilty to aggravated assault and domestic battery. The district court granted him a downward dispositional departure, sentencing him to 24 months' probation, with an underlying prison sentence of 37 months.

Within six months of sentencing, Ferguson twice admitted to multiple probation violations. After the second instance, the district court revoked Ferguson's probation and modified his sentence to run the felony and misdemeanor sentences concurrent, lowering Ferguson's controlling sentence from 37 to 31 months. Ferguson appealed, alleging the district court abused its discretion in revoking his probation. We granted his motion for summary disposition under Supreme Court Rule 7.041A (2021 Kan. S. Ct. R. 48).

The district court did not abuse its discretion. The district court had the authority to revoke Ferguson's probation under both K.S.A. 2019 Supp. 22-3716(c)(7)(B) (when defendant violates probation conditions after receiving dispositional departure), and K.S.A. 2019 Supp. 22-3716(c)(7)(C) (when defendant commits new felony or misdemeanor while on probation). Ferguson first received sanctions after stipulating to violating his probation by twice failing to report and for failing to attend substance abuse treatment. Less than a month later, Ferguson stipulated to violating his probation again by (1) failing to attend substance abuse treatment as directed, (2) threatening the victim from his original crimes, (3) contacting that victim, (4) re-offending by violating a protection from abuse order, and (3) re-offending by possessing drug paraphernalia. A reasonable person could have revoked Ferguson's probation based on those violations.

Affirmed.