

NOT DESIGNATED FOR PUBLICATION

No. 125,487

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

PABLO J. LLAMAS,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; BRUCE C. BROWN, judge. Opinion filed March 31, 2023.
Affirmed.

Submitted by the parties for summary disposition pursuant to K.S.A. 2022 Supp. 21-6820(g) and (h).

Before GREEN, P.J., HILL and COBLE, JJ.

PER CURIAM: This is a sentencing appeal by Pablo Llamas who asks for summary disposition of his appeal under Supreme Court Rule 7.041A (2022 Kan. S. Ct. at 48). The court revoked his probation and sent him to prison to serve his sentence. Our review of the record discloses no errors and no abuse of discretion by the district court. We affirm.

Llamas pled guilty to aggravated domestic battery, a felony, and criminal restraint, a misdemeanor. The court sentenced Llamas to 13 months in prison for the felony and a consecutive term of 12 months in jail for the misdemeanor, but released him on probation for 24 months.

About one week after he was sentenced, Llamas violated a protection from abuse order and a no-contact order against him—thereby violating his probation. At his probation revocation hearing, Llamas waived his right to an evidentiary hearing and admitted to violating the protection from abuse and no-contact orders.

The district court revoked Llamas' probation under K.S.A. 2022 Supp. 22-3716(c)(7)(C) and ordered him to serve the 13-month prison sentence. The court lowered the jail sentence to four months with authorization for work release.

In this appeal, Llamas claims the district court abused its discretion.

Indeed, the questions raised in this case are a matter of the exercise of discretion by the district court. A district court must take two steps in deciding whether to revoke probation: (1) A factual determination that the probationer has violated a condition of probation; and (2) a discretionary determination of the appropriate disposition given the proven violations. *State v. Skolaut*, 286 Kan. 219, 227, 182 P.3d 1231 (2008). Here, Llamas admitted he committed new crimes in violation of his probation and does not contradict that assertion on appeal. So the first step is satisfied.

Then, since a probation violation is established, a district court may revoke probation and impose the underlying sentence unless it is required by statute to impose an intermediate sanction. *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022); see K.S.A. 2022 Supp. 22-3716(b) and (c) (requiring graduated sanctions before revocation in some cases). In this matter, the district court was not required to impose an intermediate sanction before revoking Llamas' probation because he committed new crimes. K.S.A. 2022 Supp. 22-3716(c)(7)(C).

If there is no need to impose any intermediate sanction, a district court has discretion to decide whether to return the offender to a new term of probation or to

revoke and require the defendant to serve the underlying sentence. See *State v. Brown*, 51 Kan. App. 2d 876, 879-80, 357 P.3d 296 (2015). We review such questions for an abuse of discretion.

A court abuses its discretion when it steps outside the applicable legal framework, relies on facts unsupported by substantial competent evidence, or constitutes arbitrary, capricious, or unreasonable conduct—meaning no reasonable person in the court's position would have made the same decision. *State v. Miles*, 300 Kan. 1065, 1066, 337 P.3d 1291 (2014).

At the probation revocation hearing, the district court was made aware that Llamas violated his probation just one week after it was imposed by contacting the victim of the underlying crimes. Considering Llamas' apparent indifference to the district court's orders, we find that a reasonable person could agree with the district court's decision to revoke Llamas' probation. The district court did not abuse its discretion.

Affirmed.