

NOT DESIGNATED FOR PUBLICATION

No. 125,572

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

LUCIO ANGEL MENDEZ-RANGEL JR.,
Appellant.

MEMORANDUM OPINION

Appeal from Ford District Court; SIDNEY R. THOMAS, 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: Lucio Angel Mendez-Rangel Jr. appeals the revocation of his probation, arguing that the district court abused its discretion by revoking his probation rather than reinstating it. We granted Mendez-Rangel's motion for summary disposition of his appeal under Supreme Court Rule 7.041A (2022 Kan. S. Ct. R. at 48). We affirm the district court's decision to revoke Mendez-Rangel's probation since the record reveals no error.

Mendez-Rangel pleaded no contest to kidnapping and aggravated battery on a law enforcement officer. The court sentenced him to a 275-month prison sentence, suspended it, and placed him on a 36-month term of supervised probation.

When Mendez-Rangel later violated his probation by using methamphetamine, he had to serve a two-day jail sanction. But more importantly his intensive supervision officer alleged that he violated his probation terms by committing new crimes.

The State charged Mendez-Rangel in three new cases with new crimes. The charges were all serious felonies such as

- aggravated battery;
- aggravated endangerment of a child;
- criminal damage to property;
- interference with a law enforcement officer;
- assault with intent to commit a felony; and
- attempting to elude a law enforcement officer.

In addition, his probation supervisor alleged that Mendez-Rangel violated his probation terms by failing to obtain permission before leaving the state, violating the drug and alcohol requirements of his probation terms, failing to report to his supervisor, not complying with the urine test requirements, and failing to complete his community service hours.

When all of this was brought to the court, Mendez-Rangel waived his right to challenge the State's evidence and voluntarily admitted to the allegations made by his supervising officer. In exchange for his admission, the State agreed to dismiss all three of the new cases pending against him. The court found Mendez-Rangel violated his probation and resentenced him to a lower term of 138 months' imprisonment.

In this appeal, Mendez-Rangel argues that the district court abused its discretion in revoking his probation because it should have given him "one more shot at probation."

When a defendant violates their probation by committing a new crime, the district court may revoke probation at its discretion. K.S.A. 2018 Supp. 22-3716(c)(7)(C); *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022).

The district court here was not limited by K.S.A. 2022 Supp. 22-3716(c)(1), which requires intermediate sanctions because probation may be immediately revoked if "the offender commits a new felony or misdemeanor while the offender is on probation." K.S.A. 2022 Supp. 22-3716(c)(7)(C); *State v. Robles*, No. 125,414, 2023 WL 119914, at *1 (Kan. App. 2023) (unpublished opinion).

This court will not reverse the district court's decision to revoke probation unless no reasonable person would agree with it or if it is based on a legal or factual error. *State v. Reeves*, 54 Kan. App. 2d 644, 648, 403 P.3d 655 (2017). The party asserting the district court abused its discretion—here, Mendez-Rangel—bears the burden of proving such an abuse. *State v. Crosby*, 312 Kan. 630, 635, 479 P.3d 167 (2021).

Mendez-Rangel had admitted to committing several new felonies while on probation. And he provides no authority explaining why the district court abused its discretion in revoking his probation, and points to no error of fact or law. Under the circumstances, a reasonable person would agree with the district court's decision.

We affirm the district court's decision to revoke Mendez-Rangel's probation and order him to serve his modified prison sentence.

Affirmed.