

NOT DESIGNATED FOR PUBLICATION

No. 125,861

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

KRYSTLE L. DUVALL,
Appellant.

MEMORANDUM OPINION

Appeal from Lyon District Court; JEFFRY J. LARSON, judge. Opinion filed March 3, 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: Krystle L. Duvall appeals the district court's order extending her probation. We granted Duvall's motion for summary disposition pursuant to Supreme Court Rule 7.041A (2022 Kan. S. Ct. R. at 48). The State did not respond to Duvall's motion. After a review of the record, we affirm.

In keeping with a plea agreement, Duvall pled no contest to one count of criminal threat. At a sentencing hearing in March 2022, the district court sentenced Duvall to 6 months' imprisonment but granted a presumptive probation term of 12 months.

Six months after sentencing, the State moved for revocation of Duvall's probation based on violations of her probation terms, including Duvall's failure to report on multiple occasions, her failure to pay court fees, and her failure to obtain and pay for a mental health evaluation. Duvall stipulated to these violations at a hearing in November 2022.

As part of her stipulation, the parties agreed to recommend a 2-day jail sanction and reinstatement of her 12-month probation term. The district court granted the parties' request and imposed a 2-day jail sanction and an extension of her 12-month probation term.

ANALYSIS

On appeal, Duvall does not dispute that she violated the terms of her probation. Instead, her sole contention is that the district court abused its discretion when it unreasonably extended her probation. But once a violation has been established, the decision to revoke probation is within the district court's sound discretion. *State v. Skolaut*, 286 Kan. 219, 227-28, 182 P.3d 1231 (2008). A judicial action constitutes an abuse of discretion if (1) it is arbitrary, fanciful, or unreasonable; (2) it is based on an error of law; or (3) it is based on an error of fact. *State v. Ingham*, 308 Kan. 1466, 1469, 430 P.3d 931 (2018). Duvall bears the burden of showing an abuse of discretion. See *State v. Thomas*, 307 Kan. 733, 739, 415 P.3d 430 (2018).

Under K.S.A. 2021 Supp. 22-3716(c)(1)(A), Duvall's felony conviction authorized the district court to impose a "[c]ontinuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction." Similarly, the district court was authorized to extend Duvall's probation under K.S.A. 2021 Supp. 21-6608(c)(8), which permits a court to

"modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity."

Duvall does not argue the district court's decision was based on an error of law or fact. Thus, we may find an abuse of discretion here only when no reasonable person would agree with the decision. *State v. Jones*, 306 Kan. 948, Syl. ¶ 7, 398 P.3d 856 (2017). Duvall cannot show the district court's order of extension was unreasonable.

Duvall violated the terms of her probation within six months. In addition to her failures to report, Duvall stipulated to violating the special conditions of her probation, including the district court's condition that Duvall obtain a mental health evaluation, pay for the costs involved, and follow all recommendations. The record shows Duvall admitted to completing an intake and three therapy sessions before she quit attending her therapy appointments. And if she did complete the evaluation, Duvall failed to provide her court services officer with proof.

Based on Duvall's stipulations, the district court's extension of her probation was supported by the law and the facts. And the district court's extension was not arbitrary, fanciful, or unreasonable given Duvall's failure to adhere to the terms of her probation within less than six months after the district court suspended Duvall's underlying prison sentence and granted probation. The district court essentially gave Duvall another chance to succeed at probation before imposing the underlying sentence. The district court's extension of Duvall's probation was not an abuse of its discretion.

Affirmed.