

NOT DESIGNATED FOR PUBLICATION

Nos. 126,206  
126,207

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

IAN D. STINER,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Shawnee District Court; JASON E. GEIER, judge. Submitted without oral argument. Opinion filed December 1, 2023. Affirmed.

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

Before HILL, P.J., MALONE and ATCHESON, JJ.

PER CURIAM: Ian D. Stiner appeals the district court's revocation of his probation in two cases consolidated on appeal. We granted Stiner's motion for summary disposition under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). Finding no abuse of discretion, we affirm the district court's judgment.

Stiner pleaded guilty in two separate cases to aggravated assault and stalking. For his aggravated assault conviction, the district court sentenced Stiner to a controlling term of 18 months' imprisonment but granted Stiner 24 months' probation. As for the stalking conviction, the district court sentenced Stiner to 6 months' imprisonment but granted probation for 24 months. Stiner began serving his probation in May 2022.

In December 2022, a probation officer filed notice that Stiner violated the conditions of his probation. The affidavit alleged that Stiner was arrested for misdemeanor offenses, contacted his victim, engaged in repeated drug use, failed to comply with drug treatment, and failed to maintain employment. Based on these violations, the State moved to revoke Stiner's probation.

At a hearing in February 2023, the State presented evidence of most of the alleged violations, except for the allegation of misdemeanor offenses. The district court ruled that the State established the violations of contacting the victim, using drugs, and failing to comply with treatment and employment requirements. Stiner requested reinstatement of his probation. The prosecutor stated that Stiner's probation officer had required him to serve 11 days of jail sanctions, carried out over four different "quick dips." Stiner's counsel did not dispute this information. The district court denied Stiner's request for reinstatement and ordered him to serve his original sentence in each case. The journal entries of the probation revocation hearing listed Stiner's four prior jail sanctions imposed under K.S.A. 2022 Supp. 22-3716(c)(1)(B). Stiner timely appealed.

On appeal, Stiner claims the district court "abused its discretion by revoking probation and ordering service of the underlying sentences." Stiner does not explain how the district court abused its discretion; he only claims that it did. The State responds that the district court's order was not erroneous and should be affirmed.

The procedure for revoking a defendant's probation is governed by K.S.A. 2022 Supp. 22-3716. Generally, once the State has presented evidence of a violation of the conditions of probation, the decision to revoke probation rests within the district court's sound discretion. *State v. Coleman*, 311 Kan 332, 334, 460 P.3d 828 (2020). 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. Ingram*, 308

Kan. 1466, 1469, 430 P.3d 931 (2018). Stiner bears the burden of showing the district court abused its discretion. See *State v. Thomas*, 307 Kan. 733, 739, 415 P.3d 430 (2018).

We do not find the district court's decision to be unreasonable under the circumstances. The record shows that Stiner received four "quick dips," i.e., jail sanctions for previous violations before the State moved to revoke his probation based on his most recent violations. After receiving these sanctions, Stiner still failed to remain drug free, participate in drug treatment, abide by the district court's no-contact order, or obtain employment. In revoking Stiner's probation, the district court stated:

"So, admittedly, the Court is torn on what to do. I think ultimately though, given the extreme number of violations, four quick dips that have happened, there is simply no indication that if the Court gave another sanction that the defendant would remain drug and alcohol free, participate in programming, or remain compliant while on probation."

Stiner does not contest that the district court had authority to revoke his probation. Based on the record, the district court's decision to do so was not arbitrary, fanciful, or unreasonable, and it was not based on an error of fact or law. Stiner has failed to show that the district court abused its discretion by revoking his probation and ordering him to serve his original sentence in each case.

Affirmed.