

NOT DESIGNATED FOR PUBLICATION

Nos. 126,282
126,283
126,284

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

TERRY JOSEPH HADDOCK,
Appellant.

MEMORANDUM OPINION

Appeal from Leavenworth District Court; GERALD R. KUCKELMAN, judge. Opinion filed December 8, 2023. Affirmed.

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

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

PER CURIAM: In this consolidated appeal, we consider Terry Joseph Haddock appeal of the district court's revocation of his probation after he stipulated to several violations in three cases. We granted a motion for summary disposition under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). Finding no reversible errors or abuse of discretion, we affirm.

The record reveals many probation violations by Haddock.

In April 2021, Paddock pled guilty to one count of fleeing or attempting to elude a police officer in case No. 20CR391 and one count of burglary of a motor vehicle in case No. 20CR592. See K.S.A. 2020 Supp. 8-1568(b)(1)(C); K.S.A. 2020 Supp. 21-5807(a)(3), (c)(1)(A). The parties agreed to recommend the standard presumptive sentence in both cases, to be served consecutively. Paddock was subject to presumptive probation in both cases because of his criminal history score, so the district court imposed consecutive underlying sentences of 8 months' imprisonment in case No. 20CR391 and 12 months' imprisonment in case No. 20CR592 and departed to a probation term of 12 months in each case.

A few months later, Haddock pled guilty to one count of unlawful possession of a controlled substance in case No. 21CR348—a case which was pending at the time of his prior plea. See K.S.A. 2020 Supp. 21-5706(a), (c)(1). In exchange, the State agreed to dismiss a charge for possession of drug paraphernalia and not to oppose a motion for probation if Haddock could establish the criteria for border box findings. The district court granted Haddock's request for probation, imposing a standard underlying sentence of 30 months' imprisonment and departing to a probation term of 18 months. The court also ordered Haddock's sentence in 21CR348 to run consecutive to his prior cases.

In February 2022 and April 2022, Haddock stipulated to violating his probation in several ways. He also agreed to waive his right to an evidentiary hearing and serve jail sanctions imposed by his supervising officer. In May 2022, Haddock signed a written waiver and allowed the district court to extend his probation in case Nos. 20CR391 and 20CR592 for an additional 12-month term.

The next month, the State moved to revoke Haddock's probation based on several alleged violations. At a hearing in July 2022, Haddock stipulated to the alleged

violations. The district court ordered Haddock to serve a three-day intermediate sanction in each case, served concurrently and with credit for time served, but extended probation in each case by the length of the original terms. See K.S.A. 2022 Supp. 22-3716(c)(8).

In February 2023, the State again moved to revoke Haddock's probation based on several alleged violations. At a hearing in March 2023, Haddock stipulated to the alleged violations, including a new conviction for a drug possession offense. Haddock asked the district court to consider imposing another intermediate sanction based on him acknowledging ongoing drug addiction issues and because of his willingness to enter and complete a drug treatment program. The district court decided to revoke Haddock's probation and impose the underlying sentences in all three cases.

Did the district court abuse its discretion in revoking probation?

Haddock argues the district court abused its discretion when it revoked—rather than reinstated—his probation and ordered him to serve his underlying sentences.

Once a probation violation has been established, the district court's decision to revoke probation and impose the underlying sentence rests within the court's discretion. *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022). A court abuses its discretion if no one would agree with its decision or if its decision is based on an error of law or fact. 315 Kan. at 328. As the party asserting an abuse of discretion, Haddock must show that such abuse occurred. See 315 Kan. at 328.

Haddock does not dispute that he violated his probation several times, the most recent violation included the commission of a new felony. Thus, the district court had the authority to revoke his probation. See K.S.A. 2022 Supp. 22-3716(c)(1)(C) (authorizing revocation where probationer already served intermediate sanction); K.S.A. 2022 Supp. 22-3716(c)(7)(C) (authorizing revocation even without probationer having previously

served intermediate sanctions where probationer commits new felony or misdemeanor while on probation). He simply contends that the district court abused its discretion by revoking his probation because he had admitted to struggling with his drug addiction and was willing to undergo further drug treatment.

Revoking probation and imposing the prison sentences was reasonable. Although Haddock focuses on his drug addiction as the root cause for his new crime and his failures to complete an inpatient drug treatment program, he ignores the many other violations that show he has not been successful on probation. Along with continuing to use and test positive for methamphetamine, Haddock has continually failed to report to his supervising officer from the beginning of his probation. He has also failed to obtain employment or pay his outstanding court fees. In short, Haddock fails to show that the district court's decision to revoke his probation was due to a legal or factual error or that its decision was unreasonable under the circumstances.

Affirmed.