

NOT DESIGNATED FOR PUBLICATION

Nos. 125,470  
125,471

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

JULIAN VILLA,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Sedgwick District Court; JEFFREY SYRIOS, 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: Julian Villa appeals the district court's revocation of his probation. We granted Villa's motion for summary disposition under Kansas Supreme Court Rule 7.041A (2022 Kan. S. Ct. R. at 48). The State responds, asking us to affirm but does not contest that summary disposition is appropriate here. Based on our review of the record, we find no error and affirm.

In separate cases, Villa pleaded guilty to aggravated assault and burglary. The court accepted his pleas and in October 2020, sentenced him to 81 months in prison, suspended, with 24 months' probation.

About two years later, in June 2022, the State alleged that Villa had violated his probation terms and moved to revoke his probation. At the hearing on the State's motion, two police officers testified. They were patrolling on horseback when they encountered Villa in May 2022. The officers testified that during this incident, Villa showed signs of intoxication while sitting in the driver's seat of his running car. After speaking with Villa, one of the officers asked him to stop his car but against the officer's orders, Villa slowly drove his car toward one of the officers before hitting a guardrail and eventually speeding away.

The district court found that the officers' testimonies established that Villa committed new crimes and revoked Villa's probation. In making this ruling, the district court found that Villa successfully completed much of his probation but his actions endangered the officers and could not be tolerated. The district court thus ordered Villa to serve the imposed prison sentence but lowered the term of the sentence to 72 months.

Villa claims that the district court's decision to revoke his probation was an abuse of discretion but offers no explanation why this is so. He thus implies that the district court should have reinstated his probation.

Once a probation violation is established, a district court has discretion to revoke probation unless the court is otherwise limited by statute. *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022). The district court here was not limited by the statutes requiring intermediate sanctions because K.S.A. 2022 Supp. 22-3716(c)(7)(C) allows a district court to bypass intermediate sanctions if the defendant commits a new crime while on probation.

A judicial action is 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. Levy*, 313 Kan. 232, 237, 485 P.3d 605 (2021). Because Villa does not argue that the district court made an error of fact or law, our inquiry is whether a reasonable person would agree with the court's decision to revoke Villa's probation. We hold that they would.

The evidence presented at the revocation hearing supports the district court's finding that Villa committed new crimes while on probation. And the district court reasonably found that these new offenses substantiated revocation. We thus affirm the district court's decision to revoke Villa's probation and impose a modified sentence.

Affirmed.