

NOT DESIGNATED FOR PUBLICATION

Nos. 125,577
125,996

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

JASON CRAIG PRICE JR.,
Appellant.

MEMORANDUM OPINION

Appeal from Atchison District Court; JOHN J. BRYANT, judge. Opinion filed September 29, 2023.
Affirmed.

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

Before CLINE, P.J., WARNER and PICKERING, JJ.

PER CURIAM: Jason Price Jr. appeals the district court's order revoking his probation and requiring him to serve his underlying controlling prison term of 30 months. This court granted Price's request for summary disposition of his appeal under Kansas Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). We now affirm the district court's ruling.

While serving probation for a misdemeanor, Price was arrested and charged with several new crimes. Price eventually entered no-contest pleas to possession of methamphetamine, a severity level 5 drug felony, and interference with a law enforcement officer, a class A nonperson misdemeanor.

Before sentencing, the district court issued an arrest-and-detain order because Price failed to report for bond supervision or contact court services after he was released from custody. This conduct became a pattern throughout the case.

At sentencing, the district court revoked Price's probation in his previous misdemeanor case but reinstated probation to run concurrent with a new 18-month probation term. The court also ordered Price to enter mandatory drug treatment. The court imposed an underlying prison term of 30 months and 12 months of postrelease supervision for Price's new felony conviction and a concurrent 12-month jail term for his new misdemeanor conviction.

Less than a week after Price was placed on probation, the State moved to revoke it because Price failed to report to his probation officer. At a later hearing, Price's probation officer testified that Price came to his office four days after his release to probation, but only stayed about 10 minutes before telling the probation officer he had things to do. He left the office without completing his intake paperwork and never returned or scheduled another appointment. After Price was arrested on the probation-violation warrant, his probation officer visited him at the jail and conducted an oral drug test screening. Price tested positive for methamphetamine.

Based on the recommendations of the attorneys, the court imposed a three-day jail term as an intermediate sanction and ordered Price back onto probation. The court reminded Price that he was required to report to his probation officer as soon as the hearing was completed. To emphasize this point, the court told Price that he had 20 minutes to get to community corrections after the hearing. Price appealed from this ruling.

The following day, the State again moved to revoke Price's probation because he failed to report to community corrections. At the later hearing, Price's probation officer stated that Price had not contacted him. Price admitted this. The court revoked Price's probation and ordered him to serve the remainder of his underlying prison sentence and concurrent jail sentences. Price again appealed this judgment.

We consolidated both of Price's appeals into this case. Price no longer contests the three-day jail sanction. Instead, he only asserts that the district court abused its discretion when it revoked his probation rather than reinstating it. Price argues that recovering from his drug addiction is more easily achieved in drug treatment outside prison. While he contends he was confused about his reporting requirements, Price does not contest the court's finding that he violated the conditions of his probation.

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. The party asserting an abuse of discretion—here, Price—must show that such abuse occurred. 315 Kan. at 328.

Price has not identified a legal or factual error committed by the district court. He argues only that the district court acted unreasonably by failing to take into consideration his confusion about his reporting obligations. But the district court apparently did not believe Price's justification for his actions, and that was not a patently unreasonable conclusion. The district court told Price to go to community corrections immediately after the previous revocation hearing. Price recalled that the court estimated that he could walk there in 20 minutes. So, it was reasonable to presume that Price also understood the direction to go to community corrections immediately after his hearing.

In summary, it was not unreasonable for the district court to conclude that probation was no longer appropriate here. Probation is an act of judicial leniency, not a right. *State v. Gary*, 282 Kan. 232, 237, 144 P.3d 634 (2006). And Price took few steps to demonstrate that he took probation seriously or would be successful on probation. In fact, Price never completed his probation intake paperwork. This means, among other things, that community corrections was never able to get Price started on his probation or involved in drug treatment. Price has not shown that the district court abused its discretion when it revoked his probation.

Affirmed.