

NOT DESIGNATED FOR PUBLICATION

No. 125,725

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

CHEROKEE R. PRATT,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; BRUCE C. BROWN, judge. Opinion filed August 4, 2023.
Affirmed.

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

Before ARNOLD-BURGER, C.J., MALONE and SCHROEDER, JJ.

PER CURIAM: Cherokee R. Pratt appeals the revocation of his probation and imposition of his underlying 111-month prison sentence. We granted Pratt's motion for summary disposition of his sentencing appeal under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). The State does not object to summary disposition and urges this court to affirm the district court's ruling. After reviewing the record, we find no abuse of discretion and affirm.

FACTUAL AND PROCEDURAL HISTORY

In June 2021, Pratt pleaded guilty to possession of methamphetamine with the intent to distribute on May 29, 2018. Before sentencing, Pratt filed a motion requesting a

dispositional departure, which the State joined. The district court sentenced Pratt to 111 months' imprisonment but granted the dispositional departure, suspending the prison sentence and ordering supervised probation for 36 months.

Almost a year after being sentenced to probation, the district court issued a warrant to revoke Pratt's probation alleging that he failed a urine analysis, failed to obtain a drug and alcohol evaluation, and failed to complete a 48-hour jail sanction. The district court then issued another warrant alleging that Pratt failed to report to his intensive supervision officer as directed three times in August 2022. Pratt failed to appear for a probation violation hearing later that month which resulted in another warrant for his arrest. The district court held another probation violation hearing on October 11, 2022. Pratt appeared for this hearing, waived his right to an evidentiary hearing, and admitted to the probation violations. The district court revoked Pratt's probation and imposed the underlying sentence of 111 months in prison. Pratt timely appealed the district court's judgment.

ANALYSIS

On appeal, Pratt argues that the district court erred by revoking his probation and imposing the underlying sentence instead of a lesser sentence. Once a probation violation has been established, the decision to revoke a defendant's probation is within the sound discretion of the district court. *State v. Coleman*, 311 Kan. 332, 334, 460 P.3d 828 (2020). Judicial discretion is abused only if the district court's decision is based on an error of law or fact, or if no reasonable person would agree with its decision. *State v. Thomas*, 307 Kan. 733, 739, 415 P.3d 430 (2018). Pratt bears the burden of showing such abuse of discretion. See 307 Kan. at 739.

The district court must exercise its discretion to revoke an offender's probation and order the offender to serve the underlying sentence within the statutory framework of

K.S.A. 2017 Supp. 22-3716. See *Coleman*, 311 Kan. at 334, 337 (probation violation statute in effect when crime was committed applies). Generally, a district court must impose graduated intermediate sanctions before revoking an offender's probation. K.S.A. 2017 Supp. 22-3716(c)(1). But K.S.A. 2017 Supp. 22-3716(c)(9)(B) permits a district court to revoke probation—without first imposing graduated sanctions—if the probation was originally granted as a dispositional departure. The district court granted Pratt probation as a dispositional departure. Therefore, the district court had the statutory authority to revoke probation and impose Pratt's underlying sentence without first imposing any intermediate sanctions.

Pratt fails to show that a reasonable person would disagree with the district court's decision. At the probation violation hearing, Pratt admitted violating his probation by failing a urine analysis, failing to obtain a drug and alcohol evaluation, failing to complete a 48-hour jail sanction, and failing to report to probation three times. Since Pratt admitted violating his probation multiple times, a reasonable person could agree with the district court's decision to revoke Pratt's probation and impose the underlying sentence.

Upon review of the record, we find that the district court did not abuse its discretion in its decision to revoke Pratt's probation and impose the original 111-month prison sentence.

Affirmed.