

NOT DESIGNATED FOR PUBLICATION

Nos. 125,666
125,669

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

LEAH LARA,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; JEFFREY SYRIOS, judge. Opinion filed April 21, 2023.
Affirmed.

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

Before MALONE, P.J., GREEN and CLINE, JJ.

PER CURIAM: Leah Lara appeals the district court's decision to revoke her probation in two cases. We granted Lara's motion for summary disposition in lieu of briefs under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). After reviewing the record, we affirm.

In May 2018, the State charged Lara, in case No. 18CR1098, with one count of felony offender registration violation. Lara pleaded guilty to the charge. In exchange for her plea, the State agreed to recommend, in part, a dispositional departure to probation.

The district court granted the dispositional departure and sentenced her to 39 months' imprisonment underlying a 24-month probation term.

In August 2019, the State charged Lara, in case No. 19CR2551, with four different counts of felony offender registration violation. Lara pleaded guilty to two of the charges. By entering her guilty plea, Lara also admitted that she violated her probation in 18CR1098. In exchange for her plea, the State agreed, in part, to dismiss two of the charges and recommend a dispositional departure to probation.

The district court granted the dispositional departure and sentenced her to 114 months' imprisonment underlying a 36-month probation term. The sentence was ordered to run consecutive to the sentence in 18CR1098. At the same time, the district court determined that Lara had violated her probation in 18CR1098 and authorized an 18-day jail sanction and extended probation an additional 24 months.

In two warrants, filed in September 2021 and March 2022, the State alleged that Lara violated the terms of her probation in both cases by committing a new crime, failing to report several times, failing to participate in required drug and alcohol or mental health programs, submitting a urine sample that was positive for methamphetamine, leaving the state without approval, and failing to update her information with the registration office.

At a probation revocation hearing, Lara did not contest several of the allegations, including the allegation that she committed a new crime while on probation. The State withdrew three of the allegations, including the allegations that Lara committed larceny, left the state without approval, and failed to provide registration information as required.

Lara asked that the district court give her another chance on probation. She explained that she was in an abusive relationship and because of that relationship she was unable to report as directed. She believed that if she could get out of the relationship she

would do better on probation. The district court determined that Lara had violated the terms of her probations, revoked her probation in both cases, and ordered her to serve her underlying sentence in 18CR1098. The district court also revoked probation in 19CR2551 but modified the sentence to 100 months' imprisonment and ordered it to be served concurrent with 18CR1098.

Lara timely appealed both revocations, and this court consolidated those appeals.

In her motion for summary disposition, Lara argues that the district court erred by revoking her probation. But she acknowledges that the decision to revoke probation was within the district court's discretion. See K.S.A. 2017 Supp. 22-3716(c)(9)(B) (authorizing revocation without intermediate sanctions when the probation term was originally granted because of a dispositional departure); K.S.A. 2017 Supp. 22-3716(c)(8)(A) (authorizing revocation without intermediate sanctions when the offender commits a new crime while on probation); *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022) (once probation violation is established the district court has discretion to revoke probation unless otherwise limited by statute).

Because the district court was statutorily authorized to revoke Lara's probation, the decision to revoke her probation rested in the sound discretion of the district court. 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. Levy*, 313 Kan. 232, 237, 485 P.3d 605 (2021). Lara bears the burden of proving that the district court abused its discretion. See *State v. Crosby*, 312 Kan. 630, 635, 479 P.3d 167 (2021).

The district court considered Lara's arguments but determined that she was not amenable to probation. The district court pointed out that Lara was given an opportunity to show that she could be successful on probation. Nevertheless, as the record

demonstrates, Lara has squandered more than one opportunity to show the court that she could successfully complete her probation term. Thus, Lara has failed to show that the district court abused its discretion when it revoked her probation.

Affirmed.