

NOT DESIGNATED FOR PUBLICATION

No. 126,368

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

SYCARR EDWIN GREENLEY II,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; CHRISTOPHER M. MAGANA, 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: Sycarr Edwin Greenley II appeals the Sedgwick County District Court's decision to revoke his probation and ordering him to serve his underlying prison sentence. We granted Greenley's motion for summary disposition under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48) and noted the State's response supporting summary disposition because the district court acted within its broad judicial discretion. Having reviewed the circumstances, we find no abuse of that discretion and affirm the district court.

FACTUAL AND PROCEDURAL BACKGROUND

In June 2021, Greenley pleaded guilty to two counts of criminal possession of a weapon by a convicted felon, a severity level 8 nonperson felony, and one count of domestic battery, a class B person misdemeanor. The district court sentenced Greenley to serve 17 months in prison on the first count of criminal possession of a weapon consecutive to 9 months on the second count and concurrent with 6 months in the county jail on the domestic battery. Consistent with the presumption in the sentencing guidelines, the district court placed Greenley on probation for 18 months.

Greenley had a rocky go on probation. In December 2021, he signed a written acknowledgment of a probation violation, waived a hearing, and agreed to serve a three-day jail sanction. Six months later, Greenley's intensive supervision officer (ISO) alleged Greenley violated the terms of probation by failing to make required payments, by failing to gain or maintain full-time employment as directed, and by failing to complete a batterer's intervention program because he was discharged for unruly behavior after being warned about such conduct. Greenley admitted to the alleged probation violations except for the missed court payments. The district court required Greenley to serve a two-day jail sanction, extended his probation for 18 months, and ordered him to enter and complete a new batterer's intervention program.

On March 8, 2023, Greenley's ISO alleged Greenley failed to make court payments and was again unsuccessfully discharged from a batterer's intervention program. On March 21, 2023, Greenley's ISO claimed Greenley failed to report as directed and failed to contact Greenfeather Monitoring to be placed on GPS monitoring. At the probation violation hearing, the district court rejected the allegation about GPS monitoring. Greenley admitted the other alleged violations. Both parties acknowledged Greenley had mental health issues. Rather than requesting immediate revocation, the

State recommended Greenley undergo a mental health evaluation to determine whether his poor conduct was willful.

The district court stated it received a ComCare report noting Greenley was diagnosed with attention deficit hyperactivity disorder and a secondary diagnosis of other specific schizophrenia spectrum and other psychotic disorder. The district court explained the report showed Greenley had past diagnoses but there was no indication the diagnosed conditions bore on his repeated misbehavior in the batterer's intervention programs. The district court found that, all told, Greenley had been involuntarily discharged from three programs. The district court ultimately revoked Greenley's probation and ordered him to serve his original sentences, since he had already received multiple intermediate sanctions. Greenley has timely appealed.

ANALYSIS

Greenley asserts the district court abused its discretion by revoking his probation and imposing his underlying prison sentence. He specifically contends revocation was unreasonable because of "the role his health conditions played in the violations, and because no party requested revocation." The State responded Greenley failed to present compelling facts supporting a finding the district court abused its discretion in revoking the probation and requiring him to serve the prison sentences, given his repeated violations of the probation terms.

Upon finding a defendant has violated the terms of probation, a district court may revoke probation in its sound judicial discretion, subject to a few statutory limitations. *State v. Tafolla*, 315 Kan. 324, 328, 508 P.3d 351 (2022). If a defendant has served an intermediate sanction for a probation violation, the district court may revoke the defendant for a successive violation. K.S.A. 2022 Supp. 22-3716(c)(1)(C) (allowing revocation if defendant has again violated terms of probation after serving two- or three-

day sanction). A district court abuses its discretion if its decision is based on an error of fact or law or is arbitrary, fanciful, or unreasonable. *State v. Levy*, 313 Kan. 232, 237, 485 P.3d 605 (2021). Greenley bears the burden to establish such abuse of discretion. See *State v. Crosby*, 312 Kan. 630, 635, 479 P.3d 167 (2021).

Here, as Greenley acknowledges, the district court made no error of law or fact. Greenley stipulated he had violated the terms of his probation on three separate occasions. The district court had ordered short jail sanctions the first and second times Greenley committed violations. On the last set of violations, the district court considered Greenley's mental health issues and found them to be insufficiently mitigating to warrant continuing the probation. Greenley's repeated inability to conform his conduct to the requirements of the batterer's intervention programs seemed particularly telling for the district court. In short, the district court acted within its statutory authority and sound discretion in revoking Greenley's probation and imposing his underlying prison sentences. We are not prepared to say no other district court would have reached the same conclusion in these circumstances.

Affirmed.