This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1603

State of Minnesota,
Respondent,

vs.

Dakota John Greenly,
Appellant.

Filed June 2, 2025
Affirmed
Worke, Judge

Chisago County District Court
File No. 13-CR-20-673

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Janet Reiter, Chisago County Attorney, David Hemming, Assistant County Attorney, Center City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Evan A. Ottaviani, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Johnson, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant argues that the district court abused its discretion by revoking his probation. We affirm.

FACTS

Appellant Dakota John Greenly pleaded guilty to first-degree burglary of an occupied residence, in violation of Minn. Stat. § 609.582, subd. 1(a) (2020). The presumptive sentence was 57 months in prison. Greenly moved for a downward dispositional departure. In September 2022, the district court granted Greenly's request, determining that Greenly was particularly amenable to probation and chemical-dependency treatment. The district court sentenced Greenly to 57 months in prison but stayed execution of the sentence for five years.

In January 2023, Greenly's probation officer (PO) filed a violation report, alleging that Greenly had (1) failed to maintain contact; (2) failed to report a new address; (3) provided chemical-testing samples that were positive for marijuana and methamphetamine; and (4) failed to enter programming. Greenly admitted the violations, and the district court continued Greenly's probation.

In May 2024, Greenly's PO filed another violation report, alleging that Greenly had (1) used mood-altering substances; (2) failed to enroll in mental-health services; and (3) failed to get a chemical-use assessment and follow recommendations. In this report, the PO stated that Greenly had successfully completed a chemical-dependency program but failed to report his relapse. In January 2024, Greenly was directed to update his chemical-use assessment, but he waited until April to do so and then was unsuccessfully discharged from outpatient treatment in May. In February 2024, Greenly was cited twice for driving after revocation, and he caused a collision during one of the incidents. Greenly was also evicted from his housing after damaging the property.

At the probation-revocation hearing, Greenly admitted that he "intentionally and knowingly violated the terms of [his] probation," but argued that his probation should continue because he had been accepted into an inpatient-treatment program. The district court stated:

> I'll give you the bottom line up front [be]cause I don't want you to guess. I am going to ship you, sir. You are welcome to listen to my rationale, though.
>
> Having found the specific probation conditions that were violated, and that the violations themselves were intentional and inexcusable, I do find that the need for confinement outweighs policies favoring probation; primarily because you are in need of treatment, and it's best facilitated when you are a captive audience. At least what I've heard today is that your periods of sobriety occur when you're incarcerated, right now and a different time when you're in inpatient. So I do think your status as a captive audience is what really facilitates the treatment. I also believe it would unduly depreciate the seriousness of the violation if your probation was not revoked.

This appeal followed.

DECISION

Greenly argues that the district court abused its discretion by revoking his probation and executing his sentence. This court reviews a district court's decision to revoke probation for an abuse of discretion. *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980). "A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *State v. Fortner*, 989 N.W.2d 368, 374 (Minn. App. 2023) (quotation omitted).

Before revoking probation, a district court must "1) designate the specific condition or conditions that were violated; 2) find that the violation was intentional or inexcusable;

and 3) find that need for confinement outweighs the policies favoring probation." *Austin*, 295 N.W.2d at 250. Greenly acknowledges that the district court made the *Austin* findings but claims that the district court erred by revoking probation before making the findings.

At the probation-revocation hearing, Greenly's attorney stated: "[Greenly] will be admitting to all three of the alleged violations contained in the probation violation report dated May 10th of this year. And the parties will be, essentially, arguing disposition." The district court asked Greenly: "Are you admitting to those violations because you intentionally and knowingly violated the terms of your probation?" Greenly replied: "I did, yes, ma'am." The district court then inquired of Greenly whether he understood that he was (1) prohibited from using drugs and alcohol, (2) required to complete individual therapy, and (3) required to complete additional assessments or programming deemed necessary by probation. Greenly admitted that he understood that these were conditions of his probation. The district court stated: "It says here you violated those three rules. Do you admit or deny those violations?" Greenly replied: "I admit, Your Honor."

This record shows that the district court designated the specific conditions of probation that were violated and found that the violations were intentional or inexcusable because Greenly admitted that he intentionally and knowingly violated the terms of his probation. *See id.* Therefore, we conclude that the record shows that the district court properly made the first two *Austin* findings before revoking probation.

In applying the third *Austin* factor, whether the "need for confinement outweighs the policies favoring probation," *id.*, a district court considers whether "(i) confinement is necessary to protect the public from further criminal activity by the offender; or (ii) the

offender is in need of correctional treatment which can most effectively be provided if he is confined; or (iii) it would unduly depreciate the seriousness of the violation if probation were not revoked." *State v. Modtland*, 695 N.W.2d 602, 606-07 (Minn. 2005). "Only one *Modtland* subfactor is necessary to support revocation." *State v. Smith*, 994 N.W.2d 317, 320 (Minn. App. 2023), *rev. denied* (Minn. Sept. 27, 2023). A district court may not reflexively revoke probation in response to a series of technical violations, *State v. Osborne*, 732 N.W.2d 249, 253 (Minn. 2007), but it may consider whether a defendant has historically been successful on probation in determining whether confinement is appropriate. *State v. Rottelo*, 798 N.W.2d 92, 95 (Minn. App. 2011), *rev. denied* (Minn. July 19, 2011).

Here, the state argued that Greenly's sentence should be executed because he has a "long history" of violating his probation. The state also noted that Greenly had become increasingly evasive, "has a warrant out" in another county, and is facing possible extradition to Wisconsin on another matter. The state also noted the dangerousness of Greenly's first-degree burglary conviction.

While the district court stated that it was going to revoke Greenly's probation prior to making its third *Austin* finding, the district court essentially made the finding and the decision simultaneously. The district court stated: "I am going to ship you, sir. You are welcome to listen to my rationale. . . . I do find that the need for confinement outweighs policies favoring probation; primarily because you are in need of treatment, and it's best facilitated when you are a captive audience." We conclude that the district court's procedure was permissible.

Greenly also argues that, although the district court "ultimately" made the required *Austin* findings, it erred by finding that treatment could be facilitated only while Greenly was incarcerated because it also found that community rehabilitation had been successful.

The district court found that Greenly had periods of sobriety when incarcerated and "a different time when [he was] in inpatient." But the district court also found that "it would unduly depreciate the seriousness of the violation if [Greenly's] probation was not revoked." *See Modtland*, 695 N.W.2d at 607. Thus, even if the district court's finding does not support the *Modtland* subfactor that probation should be revoked because treatment can most effectively be provided during confinement, the district court found the existence of the third *Modtland* subfactor—that it would unduly depreciate the seriousness of the violation if probation were continued. Only one *Modtland* subfactor is necessary to support revocation. *See Smith*, 994 N.W.2d at 320. Therefore, the district court did not abuse its discretion by revoking Greenly's probation.

Affirmed.