IN THE COURT OF APPEALS OF IOWA

No. 1-212 / 10-1334
Filed May 25, 2011

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DANIEL RYAN MATLICK,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Jeffrey L. Harris, District Associate Judge.

A probationer appeals his removal from the deferred judgment program, challenging the adequacy of the court's fact-findings and the sufficiency of the evidence supporting those findings. **DISTRICT COURT ORDER VACATED; CASE REMANDED FOR A NEW HEARING.**

Michael M. Pedersen, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Sue Swan, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Eisenhauer and Danilson, JJ. Tabor, J., takes no part.

VAITHESWARAN, P.J.

Twenty-nine-year-old Daniel Matlick had sexually-charged online conversations with a person he believed to be a fifteen-year-old girl. The "girl" was a male officer with the Cedar Falls Police Department. When Matlick attempted to personally meet her, he was arrested for enticing away a minor, a class D felony.

Matlick pleaded guilty to attempting to entice away a minor, an aggravated misdemeanor. The district court deferred judgment and placed Matlick on probation, with the proviso that if he violated the terms of probation, the court would enter an adjudication of guilt and order him returned for sentencing.

In time, the State filed a complaint alleging that Matlick violated the conditions of his probation. Following a hearing, the district court agreed with the State that there were violations, ordered Matlick withdrawn from the deferred judgment program, and sentenced him to jail, with all but a portion of the jail term suspended.

On appeal, Matlick raises several arguments for reversal, among them the following: "where inadmissible evidence permeates the record, the Court abuses its discretion in failing to state with particularity the basis of his re-sentencing decision." This is a two-pronged attack on the court's decision: (1) a challenge to the adequacy of the court's fact-findings and (2) a challenge to the sufficiency of the evidence supporting the fact-findings.

A defendant in a revocation proceeding is entitled to have the court state the reasons for the revocation and the evidence supporting the decision. *State v. Kirby*, 622 N.W.2d 506, 509 (Iowa 2001); *State v. Lillibridge*, 519 N.W.2d 82, 83

(Iowa 1994). An on-the-record oral statement may provide an adequate substitute for written findings. *Kirby*, 622 N.W.2d at 509.

The district court did not articulate the nature of the violations or the evidence on which it relied. In its written order, the court simply stated:

> Having considered the sworn testimony which the parties elected to present, as well as the documentary evidence, the court finds that the defendant has committed substantial violations of the terms and conditions of his probation.

In its oral comments, the court stated only that the matter was submitted and a written decision would follow. Neither was sufficient to apprise Matlick of the court's thinking.

Additionally, without more detailed findings, we cannot evaluate Matlick's challenge to the sufficiency of the evidence supporting the finding of a violation. Accordingly, we vacate the order and remand for a new hearing. *See Lillibridge*, 519 N.W.2d at 83.

DISTRICT COURT ORDER VACATED; CASE REMANDED FOR A NEW HEARING.