STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0820

State of Minnesota,
Respondent,

vs.

Shannon Lee Christianson, Jr.,
Appellant.

Filed November 8, 2021
Affirmed in part and remanded
Gaïtas, Judge

Hennepin County District Court
File No. 27-CR-12-2349

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

Michael O. Freeman, Hennepin County Attorney, Jordan W. Rude, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Ross, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Shannon Lee Christianson, Jr., appeals from the district court's order denying his motion to correct his sentence, arguing that the ten-year conditional-release term following his prison sentence for third-degree criminal sexual conduct is unlawful. He contends that, in resentencing him on remand from this court, the district court did not

reimpose the conditional-release term, and once his sentence expired, the district court had no authority to add it. Because the district court imposed the conditional-release term at Christianson's original sentencing hearing and only modified the duration of the prison sentence on remand, we conclude that the district court did not abuse its discretion in denying Christianson's motion, and we affirm in part. But because the resentencing order contains a clerical error, we remand to the district court to amend the order.

FACTS

Respondent State of Minnesota charged Christianson by amended complaint with first-degree criminal sexual conduct, Minn. Stat. § 609.342, subd. 1(e)(i) (2010), third-degree criminal sexual conduct, Minn. Stat. § 609.344, subd. 1(c) (2010), pattern-of-stalking conduct, Minn. Stat. § 609.749, subd. 5(a) (2010), and false imprisonment, Minn. Stat. § 609.255, subd. 2 (2010). Following a jury trial, Christianson was convicted of third-degree criminal sexual conduct and pattern-of-stalking conduct. For the criminal-sexual-conduct conviction, the district court sentenced Christianson to 99 months in prison—a sentence at the upper end of the presumptive sentencing range—to be followed by a ten-year conditional-release term. The district court imposed a concurrent 39-month sentence for the pattern-of-stalking-conduct conviction.

Christianson appealed his 99-month sentence for the criminal-sexual-conduct conviction, arguing that the district court relied on improper considerations to impose a sentence at the upper end of the presumptive range. Specifically, Christianson asserted that the district court abused its discretion by partially basing his sentence on the actions of his family members in the courtroom, a condition beyond his control. We agreed and

reversed and remanded for resentencing, stating that, "the district court may . . . issue a new sentence anywhere within the presumptive range."[1]

On remand, the district court sentenced Christianson to 93 months in prison for the criminal-sexual-conduct conviction. During the court's sentencing pronouncement, the following exchange occurred:

> THE COURT: I'm going to resentence you, sir, to 93 months. I find that that's an appropriate sentence given all the—the facts and circumstances of this case.
>
> You will, obviously, have credit for all the time that you've served. I don't know what the number is right now but all we're doing is changing the sentence.
>
> [CHRISTIANSON'S COUNSEL]: Your Honor, [Christianson] asked me briefly before we started about whether this changed his [criminal history] points or anything, and I told him that *I don't think there's anything that will change other than the number of the sentence*.
>
> THE COURT: Yes.
>
> [CHRISTIANSON'S COUNSEL]: *Do you agree with that?*
>
> THE COURT: *Yes.*

(Emphasis added). The district court and the parties did not discuss the ten-year conditional-release term originally imposed to follow the criminal-sexual-conduct sentence. Moreover, the district court did not address or modify Christianson's other sentence for pattern-of-stalking conduct.

[1] *State v. Christianson*, No. A13-0433, 2014 WL 1344203, at *7 (Minn. App. Apr. 7, 2014).

The district court record contains a written amended sentencing order from May 16, 2014, which reflects the district court's modified 93-month sentence for the criminal-sexual-conduct conviction. This amended sentencing order does not show the conditional-release term as following Christianson's criminal-sexual-conduct conviction, however. Instead, it shows that the conditional-release term is attached to the 39-month sentence for pattern-of-stalking conduct.

Christianson served his prison sentence and was released on intensive supervised release. On December 26, 2019—while Christianson was on supervised release—the Minnesota Department of Corrections held a supervised-release-violation hearing. The notes from that hearing, which are part of the record before us, include recommendations from the parole agent and Christianson's attorney. The agent's recommendation states, "The agent requests the offender's supervised release be revoked to 02/29/20, after which he will beg[i]n his conditional release period." Further, the hearing notes state, "Counsel states the offender [cannot] be revoked past 02/29/20 as he starts his conditional release on 03/01/20" and "Counsel and the offender concur with the agent's recommendations."

In March 2021, Christianson filed a motion to correct his sentence. He asked the district court to vacate the ten-year conditional-release term reflected in the court's May 16, 2014 written sentencing order, arguing that the conditional release was unlawfully imposed as part of his sentence for pattern-of-stalking conduct. Christianson did not request a hearing. The district court issued an order denying Christianson's motion. It explained that the May 16, 2014 sentencing order—which attached the conditional-release term to the pattern-of-stalking-conduct sentence rather than the criminal-sexual-conduct

sentence—contained a clerical error that did not reflect the district court's intent or the actual sentence in the Minnesota Court Information System (MNCIS). The district court concluded that the statutorily mandated conditional-release term was correctly imposed as part of the sentence for criminal sexual conduct at the original December 11, 2012 sentencing hearing. It further concluded that the original conditional-release term was not affected by our decision remanding for resentencing or by the subsequent modification of Christianson's prison sentence from 99 months to 93 months. The district court did not issue a new sentencing order because it determined that "any clerical error in the 2014 MNCIS sentencing order has already been corrected, as evidenced by the sentence as it currently appears in MNCIS."

Christianson appeals.

DECISION

Christianson challenges the district court's order denying his motion to correct his sentence. Under Minnesota Rule of Criminal Procedure 27.03, subdivision 9, a district court "may at any time correct a sentence not authorized by law." A sentence is unauthorized if it is "contrary to law or applicable statutes." *State v. Overweg*, 922 N.W.2d 179, 182 (Minn. 2019) (quotation omitted). A sentence that omits a statutorily mandated conditional-release term is unauthorized. *State v. Humes*, 581 N.W.2d 317, 319 (Minn. 1998).

An appellate court reviews the denial of a motion to correct a sentence for an abuse of discretion. *Overweg*, 922 N.W.2d at 182. "Specifically, [an appellate court] review[s] the district court's legal conclusions de novo and its factual findings under the clearly

erroneous standard." *Townsend v. State*, 834 N.W.2d 736, 738 (Minn. 2013) (citation omitted).

Here, the parties agree that the amended sentencing order erroneously attached the conditional-release period to Christianson's sentence for the pattern-of-stalking-conduct offense.[2] The record reflects that, at some point after the resentencing hearing, Christianson completed his 93-month sentence for the criminal-sexual-conduct conviction and the conditional-release term commenced.

In denying Christianson's motion to correct his sentence, the district court concluded that the May 16, 2014 order—the written order issued immediately after the sentencing hearing—contained a clerical error. Christianson does not challenge this finding. Instead, he argues that in reversing his sentence on appeal, we necessarily reversed the mandatory conditional-release term. And because the district court did not explicitly pronounce a conditional-release term at sentencing, and the amended sentencing order showed the conditional-release term as a component of the stalking sentence, there was no conditional-release term after the resentencing hearing.

We first address Christianson's argument that the original conditional-release period did not survive this court's reversal of his sentence. For the reasons discussed below, we disagree with Christianson that the original conditional-release term ceased to

[2] Minnesota Statutes section 609.3455, subdivision 6 (2010), provides that a ten-year conditional-release term is mandatory for an offender who has been convicted of first- through fourth-degree criminal sexual conduct or criminal sexual predatory conduct, "[n]otwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required."

exist when we reversed and remanded his sentence and the district court modified the duration of his sentence.

First, our decision reversing Christianson's sentence does not support his position. We only reversed Christianson's prison sentence, and our decision was limited to the duration of that sentence. Our remand to the district court was likewise limited; we remanded solely to give the district court an opportunity to reconsider the length of the prison sentence imposed. Our decision did not address the conditional-release term.

Second, the record on remand does not support Christianson's argument. As noted, on remand, everyone agreed that the only issue before the district court was the duration of Christianson's sentence for third-degree criminal sexual conduct.

Third, the law does not support Christianson's argument. "When a statute mandates a period of conditional release, any sentence that omits the conditional-release period is unauthorized." *Kubrom v. State*, 863 N.W.2d 88, 92 (Minn. App. 2015). To the extent that the sentencing order did not include the conditional-release term as part of the third-degree sentence, the resulting sentence was improper.

Christianson argues that, even if the conditional-release term endured after the resentencing hearing, the district court "lost" its authority to correct the error in the amended sentencing order. He contends that once his supervised release expired on February 29, 2020, the district court had no jurisdiction to fix the mistake. He also alleges that the district court's addition of further sanctions—the conditional-release term—after the expiration of his sentence implicated his right to due process.

As stated, courts may, at any time, correct a sentence that is unauthorized by law. Minn. R. Crim. P. 27.03, subd. 9. But as Christianson points out, "[o]nce a sentence has expired, the court no longer has jurisdiction to modify even what may be an unauthorized sentence." *Martinek v. State*, 678 N.W.2d 714, 718 (Minn. App. 2004) (citing *State v. Purdy*, 589 N.W.2d 496, 498-99 (Minn. App. 1999)); *State v. Hannam*, 792 N.W.2d 862, 865 (Minn. App. 2011). "The expiration of a sentence operates as a discharge that bars further sanctions for a criminal conviction." *Purdy*, 589 N.W.2d at 498.

We reject Christianson's argument that the district court has no jurisdiction to correct the mistake in its records. Preliminarily, we agree with the district court that the mistake in the amended sentencing order is a clerical error. "Clerical mistakes" are errors that are "apparent upon the face of the record and capable of being corrected by reference to the record only. It is usually a mistake in the clerical work of transcribing the particular record [and] cannot reasonably be attributed to the exercise of judicial consideration or discretion." *State v. Walsh*, 456 N.W.2d 442, 443 (Minn. App. 1990) (quoting *Wilson v. City of Fergus Falls*, 232 N.W. 322, 323 (Minn. 1930)). A motion to correct a clerical error can only be used to ensure the truthfulness of the judgment or record, not to alter them. *Id.* "Clerical mistakes in a judgment, order, or in the record arising from oversight or omission may be corrected by the court at any time, or after notice if ordered by the court." Minn. R. Crim. P. 27.03, subd. 10.

Here, the amended sentencing order clearly contains a transcription error. The conditional-release term was notated below the wrong conviction. This error was not attributable to judicial discretion. Indeed, as Christianson observes, the district court had

no discretion to order conditional release to follow his sentence for pattern-of-stalking conduct. *See* Minn. Stat. § 609.749, subd. 5(a); *see also* Minn. Stat. § 609.3455, subd. 6. Because the error is a clerical error, the district court retained the authority to correct it.

We also are not persuaded by Christianson's argument that the clerical error implicated his due-process rights. "An unauthorized sentence may be corrected without violating due process when a defendant has notice that a correction is required and has not developed a crystallized expectation as to the finality of the sentence." *Kubrom*, 863 N.W.2d at 92 (quotation omitted). Again, the record shows that Christianson was told about the conditional-release term at his original sentencing hearing and agreed that the district court's resentencing decision only affected the duration of his prison sentence for criminal sexual conduct. Moreover, the record establishes that Christianson knew he would be on conditional release even before his criminal-sexual-conduct sentence expired. The notes from his supervised-release-violation hearing—which he submitted to the district court in connection with his motion to correct his sentence—reflect a specific discussion about the conditional-release term while he was still on supervised release. According to those notes, Christianson's parole agent stated that Christianson "will begin his conditional release period" after his February 29, 2020 date of maximum confinement. Christianson's attorney observed that Christianson "starts his conditional release on 03/01/20." And Christianson agreed with the agent's recommendations, which referenced the conditional-release period. Given the record, Christianson clearly had notice that he was subject to the conditional-release term and had not developed a "crystalized expectation" as to the finality of the sentence. *State v. Calmes*, 632 N.W.2d 641, 648

(Minn. 2001). Thus, the mistake in the amended sentencing order raises no due process concerns.

In denying Christianson's motion to correct his sentence, the district court observed that the clerical error has already been corrected in MNCIS, which shows the conditional-release term as following the criminal-sexual-conduct sentence. But the district court's amended sentencing order issued on May 16, 2014, which contains a clerical error, remains a part of the record. To avoid future confusion, the clerical error in the amended sentencing order should be addressed. We therefore remand to the district court to issue a new order reflecting Christianson's correct sentence.

Affirmed in part and remanded.