STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0554

State of Minnesota,
Respondent,

vs.

Benjamin John Joyce,
Appellant.

Filed July 25, 2022
Affirmed
Frisch, Judge

Scott County District Court
File No. 70-CR-09-28562

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

Ronald Hocevar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney, Shakopee, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

In this probation-revocation appeal, stayed to permit appellant to pursue postconviction proceedings, appellant argues that the postconviction court abused its

discretion by denying him relief on his ineffective-assistance-of-counsel claim when counsel did not move to suppress evidence resulting from an allegedly unreasonable search by his probation officer. We affirm.

FACTS

In 2009, respondent State of Minnesota charged appellant Benjamin John Joyce with four counts of criminal sexual conduct related to allegations that he was engaged in a sexual relationship with his 15-year-old niece, K.J.H. (the victim). Minn. Stat. §§ 609.342, subd. 1(b), (g), .344, subd. 1(e), (f) (2008). In 2010, Joyce pleaded guilty to one count of first-degree criminal sexual conduct. The plea agreement provided for a stay of execution of a 144-month prison term with a 20-year probationary term subject to certain conditions. Relevant to this appeal, Joyce's probation conditions included a prohibition on accessing or possessing pornography and an agreement to "random searches of [his] residence." The district court accepted Joyce's guilty plea and sentenced him in accordance with the plea agreement.

For approximately nine years, Joyce appeared to comply with the conditions of his probation. He completed roughly four years of probation in Scott County, including successful completion of a sex-offender treatment program. In 2014, Joyce transferred his probation to Hennepin County, where he completed approximately five additional years' probation. In 2018, Hennepin County placed Joyce on low-level administrative probation.

On March 11, 2019, Joyce's sister—the victim's mother—called Scott County probation to report that Joyce was in violation of his probation. Three days later, on March

14, 2019, sister visited the Scott County probation office. That same day, Scott County probation sent the following email to Hennepin County probation:

> Hello again- [sister] (the victim's mother) called me on Monday to say that Ben [Joyce] has been stalking [the victim]. I asked if she contacted the police and she said that she doesn't have proof and can't predict where he will be. I advised that she call the police. She also said that Ben's ex-wife told her that Ben has a desk top and a laptop and has lots of pornography on them. [Sister] doesn't have proof, but said it's there. When I attempted to give her your number, she had to go.

On March 14, after receiving the email, a Hennepin County probation officer conducted a search of Joyce's house and seized multiple electronic devices, including Joyce's computer and phone. A preliminary forensic investigation of the devices revealed pornography, including possible child pornography. Probation delivered the devices to law enforcement for further investigation. Law enforcement discovered numerous files containing possible child pornography. Eleven days later, on March 25, Hennepin County filed a probation-violation report, alleging in pertinent part that Joyce possessed pornography in violation of his probation conditions. Joyce retained two attorneys to represent him, to whom we refer as "lead attorney" and "supporting attorney."

Between August and October 2019, the district court held a three-day contested probation-revocation hearing as to whether Joyce knowingly and intentionally violated his probationary conditions. The district court received evidence from the probation officer who conducted the search, two computer forensic investigators, and Joyce himself. The evidence showed that the forensic search of Joyce's devices revealed pornography, including child pornography on Joyce's computer, and that the pornography was

downloaded onto the computer between 2013 and 2016. Although several other people had access to the computer at issue, Joyce was the only convicted sex offender who had access to the computer during the relevant time frame. Moreover, the forensic search revealed that a user prepared Joyce's tax returns and accessed child pornography shortly thereafter, and Joyce admitted to preparing his taxes on that computer. The district court discredited Joyce's testimony that he had never seen or downloaded the pornography in question.

Relevant to this appeal, the prosecutor questioned the Hennepin County probation officer, who testified that Joyce was "very cooperative" with the search:

> Q: When you arrived, who was present at that time at [Joyce's] home?
> A: Just Mr. Joyce.
>
> Q: Did you explain the purpose for your visit?
> A: I let him know that we had received information that he was breaking his probation conditions and so I needed to take his electronic devices.
>
> Q: Did he make any statements to you at that time?
> A: No. Mr. Joyce was very cooperative with us. He engaged with us. He was respectful with us. He cooperated with our search process.
>
> Q: Did he actually show you where the devices were located within the home?
> A: Yep. Yes, he did.
>
> Q: And as you actually retrieved each of those devices, did you document on a search inventory form the device that you took [and] where it was found?
> A: Yes. I—I was with Mr. Joyce *as he gave me* the electronic devices. . . .

(Emphasis added.)

The district court found that clear and convincing evidence established that Joyce knowingly and intentionally possessed pornography, and he therefore violated a condition of his probation. Following a contested disposition hearing, the district court revoked Joyce's probation and executed the 144-month prison sentence.

In April 2020, Joyce appealed to this court. In July 2020, Joyce moved to stay the appeal and remand for postconviction proceedings. We granted Joyce's motion. *State v. Joyce*, No. A20-0554 (Minn. App. July 24, 2020) (order). In August 2020, Joyce filed a postconviction petition wherein he alleged that he received ineffective assistance of counsel when his counsel failed to move to suppress the evidence obtained from the search of the electronic devices. Joyce alleged that such a motion would have been meritorious because probation lacked reasonable suspicion to conduct the search.

The postconviction court held a two-day evidentiary hearing on Joyce's petition. In May 2021, the postconviction court received testimony from supporting attorney. Supporting attorney testified that counsel's strategy in defending the probation-violation allegations was to undermine the theory that Joyce downloaded the pornography and to argue that the pornography was miscategorized as child pornography. Supporting attorney testified that counsel did not challenge the probationary search because Joyce's probation terms did not require probation to have reasonable suspicion to conduct a search, and she believed that "[Joyce] consented [to the search] by handing over his devices and providing the passwords," stating that "he did consent to giving his items over to probation." Supporting attorney further testified: "Once you consent, there's not really a reasonable suspicion argument to make."

In July 2021, the postconviction court received testimony from lead attorney and a criminal-law expert witness. As counsel responsible for strategy development, lead attorney testified that Joyce was required to submit his electronic devices to probation because he was subject to random suspicionless searches as part of his probation conditions. Lead attorney testified that even if reasonable suspicion were required, sister's tip met that standard here. Lead attorney concluded that the suppression question was "a non-issue" and "a meritless thing."

The expert witness testified that, although probation did not require a search warrant to search Joyce's home and devices, it was required to have reasonable suspicion to conduct the search. The expert witness further testified that there was no reasonable suspicion authorizing the search here: "All you had was the report," which the expert witness claimed lacked firsthand knowledge, was unreliable, and was unsupported by further investigation. The expert witness opined that the failure to move to suppress was not reasonable strategy and was therefore "constitutionally deficient and objectively unreasonable" legal advice.

In December 2021, the postconviction court denied Joyce's petition. The postconviction court held that whether probation is required to have reasonable suspicion to conduct such a search is an "unsettled" area of law and counsel's representation did not fall below an objective standard of reasonableness by not raising an unsettled question of law. The postconviction court further determined that even if reasonable suspicion were required, sister's tip provided "specific, articulable facts" to support a search. The postconviction court held that Joyce's counsel exercised reasonable legal strategy by declining to bring a suppression motion.

The postconviction court also found as a matter of fact that, "[b]ased on the search conditions that [Joyce] agreed to in 2010, and his cooperation during this search of his residence . . . , [Joyce] *consented to the search* of his home and the seizure of his electronic devices." (Emphasis added.) The postconviction court relatedly concluded that it "would have denied any suppression motion had [Joyce's] trial counsel brought one, based on the conclusion that . . . [Joyce] likely consented."

In January 2022, Joyce moved to dissolve the stay and reinstate his appeal, which we granted. *State v. Joyce*, No. A20-0554 (Minn. App. Jan. 20, 2022) (order).

DECISION

Joyce argues that the postconviction court abused its discretion when it found that he did not receive ineffective assistance of counsel and argues in his pro se supplemental brief that the district court abused its discretion by revoking his probation.

I. The postconviction court did not err by denying Joyce's postconviction petition.

Joyce argues that the postconviction court abused its discretion by denying his ineffective-assistance-of-counsel claim because probation was required to have reasonable suspicion to conduct the search and lacked the requisite suspicion here.

We review the denial of a postconviction petition for an abuse of discretion. *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013). A postconviction court abuses its discretion if it misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner contrary to logic and the facts on record. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017); *see also Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn.

2022). But because ineffective-assistance-of-counsel claims are questions of law, "we review the [postconviction] court's legal conclusions . . . de novo." *Nicks*, 831 N.W.2d at 503. "A petitioner bears the burden to establish by a preponderance of the evidence that facts exist that warrant postconviction relief." *Tscheu v. State*, 829 N.W.2d 400, 403 (Minn. 2013).

The Sixth Amendment to the United States Constitution guarantees the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 684-86 (1984). To succeed, an ineffective-assistance-of-counsel claim must meet the two-prong test established by the Supreme Court in *Strickland*. *Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020) (applying *Strickland* to a postconviction ineffective-assistance-of-counsel claim). This test requires an appellant to show that (1) counsel's representation "fell below an objective standard of reasonableness" and (2) "there was a reasonable probability that, but for counsel's errors, the result of the proceedings would have been different." *Id.* (quotations omitted).

We apply a strong presumption that counsel's "performance falls within the wide range of 'reasonable professional assistance.'" *State v. Jones*, 392 N.W.2d 224, 236 (Minn. 1986). Counsel violates a defendant's Sixth Amendment right by failing to make a meritorious suppression argument because counsel misunderstands the law. *See Kimmelman v. Morrison*, 477 U.S. 365, 385 (1986) ("[Defendant's] attorney failed to make a timely suppression motion, not due to strategic considerations, but because, until the first day of trial, he was unaware of the search and of the State's intention to introduce the . . . evidence. . . . [W]e find counsel's decision unreasonable."); *Hinton v. Alabama*, 571 U.S.

263, 374 (2014) ("An attorney's ignorance of a point of law that is fundamental to [the] case combined with [that attorney's] failure to perform basic research on that point is a quintessential example of unreasonable performance under *Strickland*."). But "[a] claim of ineffective assistance of counsel may not rest on the failure of an attorney to make a motion that would have been denied if it had been made." *Johnson v. State*, 673 N.W.2d 144, 148 (Minn. 2004).

A. Because Joyce consented to the search, he did not receive ineffective assistance when counsel did not challenge the validity of the search.

The postconviction court's uncontested finding of fact that Joyce consented to the search is dispositive of his ineffective-assistance-of-counsel claim. At both the district court and postconviction court proceedings, the parties presented evidence that Joyce consented to the search, and Joyce did not challenge any of the evidence that he consented to the search. Based on this uncontested evidence, the postconviction court found as a matter of fact that Joyce consented to the search. Joyce does not challenge that finding in his briefs on appeal. Accordingly, counsel's choice to not move to suppress the evidence from the probationary search was not ineffective representation because such a motion would not have been meritorious in light of Joyce's consent to the search.

Consent to search operates as an exception to the ordinary warrant requirement. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973); *State v. Hanley*, 363 N.W.2d 735, 738 (Minn. 1985). "For a search to fall under the consent exception, the State must show by a preponderance of the evidence that consent was given freely and voluntarily." *State v. Diede*, 795 N.W.2d 836, 846 (Minn. 2011). "Whether consent was voluntary is

determined by examining the totality of the circumstances." *State v. Harris*, 590 N.W.2d 90, 102 (Minn. 1999) (quotation omitted). Counsel does not provide ineffective assistance by failing to move to suppress evidence seized during an otherwise unconstitutional search when probation obtains voluntary consent to search. *See State v. Croteau*, No. A06-1103, 2007 WL 2916524, at *2 (Minn. App. Oct. 9, 2007), *rev. denied* (Minn. Dec. 19, 2007). "[W]hether a consent to a search was in fact 'voluntary' or was the product of duress or coercion . . . is a question of fact." *Schneckloth*, 412 U.S. at 227.

The postconviction court found as a matter of fact that "[Joyce] consented to the search of his home and the seizure of his electronic devices." Joyce did not challenge this finding in his briefs on appeal. "[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it." *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944). "We give great deference to a [postconviction] court's findings of fact and will not set them aside unless clearly erroneous." *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010). Fact findings are clearly erroneous "when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

Our review of the record reveals ample support for the postconviction court's finding that Joyce consented to the search. The uncontested testimony at the evidentiary hearing established that Joyce was "very cooperative" with the probation officer who searched his home, "cooperated with [probation's] search process," "actually show[ed] [probation] where the devices were located within the home," and "gave [probation] the

electronic devices." Joyce also gave probation his unlocked cell phone and provided probation with the passwords for multiple devices, even going so far as to call his girlfriend to get a password for one device. There is no evidence in the record that establishes or even suggests that Joyce did not voluntarily consent to the search.

Because Joyce consented to the search, resolution of Joyce's arguments as to whether probation was required to have reasonable suspicion to conduct the search or whether such suspicion existed here is unnecessary, and we decline to address them.

B. Supplemental briefing and remand to the postconviction court are unnecessary.

At oral argument, Joyce suggested that the issue of his consent to the search was not sufficiently litigated before the postconviction court or on appeal, and that the issue should be subject to supplemental briefing or remand to the postconviction court for additional findings. We disagree.

1. The record is developed as to the issue of consent and unequivocally establishes that Joyce consented to the search.

Our review of the record demonstrates that during the proceedings, the parties introduced extensive evidence through multiple witnesses regarding Joyce's consent to the search, and Joyce did not object to or contest any of that evidence. The probation officer provided extensive testimony regarding the circumstances of the search, including that Joyce unequivocally cooperated and assisted with the search. Joyce declined to cross-examine, rebut, challenge, or introduce any competing evidence or argument with respect to the probation officer's testimony that Joyce consented to the search. Both supporting attorney and lead attorney testified that Joyce consented to the search and that

they did not move to suppress evidence obtained from the search because Joyce consented. Specifically, supporting attorney testified four different times on direct examination that Joyce "consented and handed over his electronic devices," "consented by handing over his devices and providing the passwords," "consent[ed] to giving his items over to probation," and "consent[ed] to provide the passcode" to his electronic devices. Joyce did not ask supporting attorney any follow-up questions regarding consent on cross-examination or challenge any of supporting attorney's testimony on consent. Lead attorney also testified twice that she believed that Joyce consented to the search. Joyce did not challenge or follow up on any of lead counsel's testimony that he consented to the search. As Joyce bears the burden to establish "that facts exist that warrant postconviction relief," his failure to establish or proffer *any* facts at any hearing indicating that he did not consent to the search is fatal to his appeal. *Tscheu*, 829 N.W.2d at 403.

We reiterate that the postconviction court expressly found that Joyce consented to the search, and Joyce did not challenge that finding of fact in his briefs on appeal.[1] We set aside a finding of fact only when it is "clearly erroneous." *Andersen*, 784 N.W.2d at 334. A fact is clearly erroneous when it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Kenney*, 963 N.W.2d at 221 (quotation omitted). "When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and

[1] We note that in his pro se supplemental brief, Joyce challenges several of the postconviction court's findings of fact. But he does not challenge the finding of fact that he consented to the probationary search.

findings to the contrary." *Id.* at 223 (quotation omitted). "[Our] duty is fully performed after [we have] fairly considered all the evidence and . . . determined that the evidence reasonably supports the decision." *Id.* at 222 (quotation omitted). Because the record supports the postconviction court's finding of fact that Joyce consented to the search and there is nothing in the record that undermines the postconviction court's finding, we cannot conclude that the postconviction court clearly erred. The fact that Joyce consented to the search is dispositive that counsel did not provide ineffective assistance by failing to challenge that search.

2. The evidence did not suggest that Joyce's consent to the probationary search was involuntary, and no supplemental briefing is required.

At oral argument, Joyce's counsel suggested that supplemental briefing regarding the voluntariness of the search is appropriate, pointing to the testimony of lead attorney regarding the voluntariness of Joyce's consent. *See State v. Dezso*, 512 N.W.2d 877, 880 (Minn. 1994) ("[W]hen an encounter becomes coercive, when the right to say no to a search is compromised by a show of official authority . . . , the Fourth Amendment intervenes. Consent must be received, not extracted."). Our review of the record does not reveal any evidence indicating that Joyce believed that his consent to the search was involuntary, or that the probation officer who searched Joyce's house exercised a show of authority, or that Joyce was otherwise denied the right to withhold his consent to the search.

The testimony from lead attorney, at most, calls into question the voluntariness of a *subsequent* search of Joyce's cell phone. But that search occurred well after probation

completed its primary search of his electronic devices containing the contraband at issue here. Lead attorney testified:

> Mr. Joyce contacted us very concerned . . . . [H]is probation officer was requesting a search of his electronics. When he contacted me, he explained that he knew that he was required to submit his electronics because his probation conditions that he signed shortly after being sentenced in 2010 required him to be subject to random suspicionless searches.
>
> So when he contacted me, he said, "I don't really know why they want this. This doesn't feel right. But I understand that I'm obligated to turn this over. Is there any way you can get me out of it."
>
> . . . .
>
> There was a number of discussions that we had with Mr. Joyce about whether or not he should provide, I believe it was a fingerprint or a passcode [for his phone], to his probation officer in Hennepin County. We went over this discussion a number of times. We looked at the information that we had. And, ultimately, Mr. Joyce agreed with us that that is something that he needed to do because he didn't want to be in violation of his probation for failing to cooperate with the conditions.

Joyce's counsel clarified the timeline of this testimony, asking lead attorney: "When Mr. Joyce initially contacted you, had [the probation officer] . . . already conducted the search of his home?" Lead attorney replied, "I believe [probation] had already taken the electronics from [Joyce's] home. . . . I believe they removed the items and then had those devices at the probation office and then they were looking for a password or a fingerprint to get into the [phone] device."

This testimony does not cast any doubt on the voluntariness of Joyce's consent to the initial search of his electronic devices. Instead, lead attorney's testimony solely related

to Joyce's potential objection to the after-the-fact search of his phone, which yielded only a small minority of the pornography. Even if this testimony indicates that Joyce mistakenly believed that he was obligated to allow probation to search his electronic devices, such a mistaken belief as to one's right to contest a search does not establish that the consent was involuntary. *See Schneckloth*, 412 U.S. at 227 ("While knowledge of the right to refuse consent is one factor to be taken into account, the government need not establish such knowledge as the [essential requirement] of an effective consent."). The testimony at issue therefore does not suggest or establish that Joyce withheld his voluntary consent to the underlying probationary search of his electronic devices and we do not require supplemental briefing to further clarify this issue.

Because the record on appeal is sufficiently developed as to the fact that Joyce consented to probation's search of his electronic devices and because the postconviction court did not clearly err by finding that Joyce consented to the search, we decline to solicit supplemental briefing or remand to the postconviction court.

II. The district court did not abuse its discretion by revoking Joyce's probation.

In his pro se supplemental brief, Joyce appears to argue that the district court abused its discretion by revoking his probation. Joyce specifically argues that (1) law enforcement incorrectly categorized certain files as being child pornography and "there is no definitive way to say how much sexually explicit [material] there actually was," (2) the district court should not have revoked his probation on the basis of the search-violation allegations, and

(3) the results of certain tests that Joyce took during his sexual-offender treatment program demonstrate that the district court should not have revoked his probation.[2] We disagree.

Before revoking probation, the district court must address three factors. *State v. Austin*, 295 N.W.2d 246, 250 (Minn. 1980). The 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 [the] need for confinement outweighs the policies favoring probation." *Id.* Mere recitation of the factors, or "general, non-specific reasons for revocation," are insufficient; a district court must meaningfully address the factors. *State v. Modtland*, 695 N.W.2d 602, 608 (Minn. 2005). The third *Austin* factor requires a district court to further consider 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.

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[2] Joyce also contests several of the postconviction court's findings of fact. As noted herein, "[w]e give great deference to a [postconviction] court's findings of fact and will not set them aside unless clearly erroneous." *Andersen*, 784 N.W.2d at 334. Fact findings are clearly erroneous "when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Kenney*, 963 N.W.2d at 221 (quotation omitted). Joyce argues that he did not own or have access to certain electronic devices when some of the pornographic files were downloaded and he did not view the files. But the record provides sufficient support for the postconviction court's findings of fact. Thus, we discern no clear error in these findings.

Joyce additionally argues that certain files were newly created *after* the laptop was seized, "taint[ing] all results and . . . invalidat[ing] any findings." We decline to address the merits of this argument as we "will not decide issues which were not raised before the district court." *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). Regardless, the timestamp on one file does not negate the existence of the significant volume of pornography found on Joyce's computer.

Austin, 295 N.W.2d at 251. Whether the district court made the findings required to revoke probation is a question of law, which we review de novo. *Modtland*, 695 N.W.2d at 605. But the district court "has broad discretion in determining if there is sufficient evidence to revoke probation and should be reversed only if there is a clear abuse of that discretion." *Austin*, 295 N.W.2d at 249-50. A postconviction court abuses its discretion if it misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner contrary to logic and the facts on record. *Bender*, 971 N.W.2d at 262.

The district court found that Joyce violated his probation conditions in two ways: first, by possessing and accessing pornography, and second, by refusing to submit to random searches. The district court then found that the state proved by clear and convincing evidence that Joyce "intentionally violated his probation condition[s] requiring him to refrain from possessing or using pornography" and "requiring him to submit to random searches." Finally, the district court found that the need for Joyce's confinement outweighed the policies favoring probation, specifically concluding that Joyce is "a danger to the public," thus "confinement is necessary to protect the public from further criminal activity"; "[Joyce] need[s] additional treatment. And that correctional treatment . . . without the Internet, . . . can best be provided if [Joyce is] confined"; and "it would unduly depreciate the seriousness of this violation if I did not revoke [Joyce's] probation." The district court made the requisite findings to revoke Joyce's probation, and we review its revocation decision for an abuse of discretion. *Modtland*, 695 N.W.2d at 605; *Austin*, 295 N.W.2d at 249-50.

Joyce does not establish that the district court abused its discretion. Joyce's first argument that law enforcement incorrectly categorized certain files as child pornography and therefore "there is no definitive way to say how much sexually explicit [material] there actually was," does not demonstrate that the district court abused its discretion. Even if Joyce possessed or accessed just *some* child pornography, the district court would have acted within its discretion by revoking Joyce's probation. Moreover, Joyce's probationary conditions prohibited him from possessing *any* pornography, not just child pornography. This argument is unavailing.

Joyce's second argument, that the district court abused its discretion by revoking his probation because Joyce failed to provide his phone passcode, similarly fails. Even if we agree with Joyce, the district court found an alternate basis for revoking his probation—that Joyce possessed and accessed pornography in violation of his probation. Because the district court acted within its discretion by revoking Joyce's probation on the basis of his possessing and accessing pornography, this argument fails.

Joyce's third and last argument that certain tests that he completed over the course of his sex-offender treatment program somehow undermine the district court's revocation decision is also without merit. The fact that Joyce underwent polygraph and plethysmograph assessments nearly a decade ago is not relevant to the district court's findings of fact that Joyce possessed and accessed pornography in violation of his probation. In sum, the district court did not abuse its discretion by revoking Joyce's probation.

Affirmed.