

*This opinion is nonprecedential except as provided by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**

A21-1696

A21-1697

State of Minnesota,
Respondent,

vs.

Jared Wayne DeHart,
Appellant.

Filed August 1, 2022
Reversed
Smith, Tracy M., Judge

Itasca County District Court
File Nos. 31-CR-12-1776, 31-CR-12-3596

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

Matti R. Adam, Itasca County Attorney, Grand Rapids, Minnesota (for respondent)

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

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In these consolidated appeals from orders revoking probation and executing sentences in separate files, appellant Jared Wayne DeHart argues that the district court lacked jurisdiction to revoke his probation because his probation expired more than two

years before the alleged violations. In the alternative, DeHart argues that the district court abused its discretion in revoking his probation because respondent State of Minnesota failed to prove by clear and convincing evidence that he intentionally violated the conditions of his probation and the policies favoring his confinement outweighed the policies favoring probation. Because DeHart's probation expired two years before the alleged violations, we conclude that the district court lacked the authority to revoke DeHart's probation, and we reverse.

FACTS

In September 2012, DeHart pleaded guilty to one count of third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(b) (2010). In January 2013, DeHart pleaded guilty to two more counts of third-degree criminal sexual conduct, also in violation of Minn. Stat. § 609.344, subd. 1(b). On March 11, 2013, the district court stayed adjudication for all counts and placed DeHart on probation for five years. One of the terms of DeHart's probation was to complete sex-offender treatment.

In 2015, DeHart violated the terms of his probation. In response to the violation, the district court revoked the stays of adjudication, ordered a stay of imposition, and ordered DeHart to serve 120 days in jail. In 2016, DeHart again violated his probation by using alcohol. The district court reinstated his probation. In 2018, the district court found that DeHart again violated his probation. The district court revoked the stays of imposition and imposed stayed sentences of 70 months, 42 months, and 36 months for his three convictions. The district court also ordered DeHart to serve 210 days in jail and extended his probation by one year to March 11, 2019.

DeHart did not complete his sex-offender treatment by March 11, 2019. On March 25, 2019, the state filed a document entitled, “Agent’s Recommendation for Voluntary Extension of Probation-Adult.” The document, which was signed by DeHart and his probation agent, stated:

I, Jared Wayne DeHart, understand that my probation is due to expire on 3/11/2019. I understand that I am entitled to a hearing in this matter as a result of the conditions of probation not being met. I further understand that I have a right to speak to an attorney regarding this matter. At the present time, I still have am [sic] in sex offender treatment and I still have financial obligations. I understand that once I complete this treatment, a recommendation for discharge will be forwarded to the court.

I have discussed options available to me with my Corrections Agent . . . and at this time, would waive my right to a hearing and ask the Court to extend the term of my probation for one year to allow more time to complete sex offender treatment and to pay off the financial obligations I owe in this matter.

On April 11, 2019, the district court extended DeHart’s probation for one year, or until March 11, 2020.¹ DeHart resumed sex offender treatment.

The probation expiration date under the 2019 extension—March 11, 2020—passed without the state alleging a violation. On April 23, 2020, the state filed another document entitled, “Agent’s Recommendation for Voluntary Extension of Probation-Adult.” This document was signed by DeHart and his probation agent and contained identical language

¹ We note that the district court order in the record is unsigned, and we therefore rely on the date that the parties agree upon in their briefs.

to that in the document that the state filed in 2019. On April 27, 2020, the district court issued an order extending DeHart's probation one year, or until March 11, 2021.²

In February 2021, the state filed a probation-violation report, and DeHart later admitted to violating his probation by failing to complete sex-offender treatment, possessing pornography, accessing the internet without approval, and using marijuana. The district court reinstated DeHart's probation and extended his probation five years, or until March 11, 2026. The district court also ordered DeHart to serve 6 months in jail with 40 days of credit.

In July 2021, just over one month after DeHart's release from jail, the state filed another probation-violation report. The report alleged that DeHart failed to complete sex-offender treatment, possessed pornographic and sexually explicit materials, and used the internet without permission. At the contested probation-revocation hearing in August 2021, the state withdrew the allegations that DeHart failed to complete sex-offender treatment, and the district court found that the state proved by clear and convincing evidence that in July 2021 DeHart violated his probation by accessing the internet without permission and possessing sexually explicit images. The district court revoked DeHart's probation and executed concurrent prison sentences of 70 months, 42 months, and 36 months.

DeHart appeals.

² This order, too, is unsigned.

DECISION

Generally, a district court can adjudicate a probation violation committed “during the term of the stay.” Minn. Stat. § 609.14, subd. 1(b) (2020). If a probation violation occurs during the stay, then the state may initiate probation-revocation proceedings at any time up to six months after the stay expires. *Id.* But if the alleged violation occurs after probation ends, the district court lacks the authority to revoke probation. *See State v. Hannam*, 792 N.W.2d 862, 865 (Minn. App. 2011) (dismissing a sentencing appeal because the sentence had expired and the appellate court thus had “no authority to amend or modify the sentence to impose further sanctions”).

DeHart argues that the district court lacked subject-matter jurisdiction to revoke his probation because his probation violations occurred more than two years after his probation expired. The violations occurred in July 2021. DeHart argues that his probation expired in March 2019. He contends that the district court’s April 2019 order purporting to extend his probation to March 11, 2020, was not valid and that his probationary term therefore ended in March 2019.³ The state counters that the district court’s extension of probation to March 11, 2020, was authorized by statute.⁴ Thus, it argues, DeHart’s probation did not expire in March 2019 and the probation violations fell within DeHart’s probationary term.

³ DeHart’s argument that the probation extension in the district court’s April 2019 order was invalid applies equally to the probation extension in the district court’s April 2020 order.

⁴ The state’s argument also applies to the probation extension in the district court’s April 2020 order.

Resolving the issue of whether the district court’s extension of probation was authorized by statute requires statutory interpretation, which is a question of law that we review de novo. *See State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016). When interpreting a statute, we must “effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2020). If we can determine the legislature’s intent from the statute’s plain language, then “the letter of the law shall not be disregarded under the pretext of pursuing its spirit.” *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015). When interpreting a statute, we “must read and construe the statute as a whole, and we must interpret each section in light of the surrounding sections, so as to give effect to all of the provisions.” *State v. Barrientos*, 837 N.W.2d 294, 300 (Minn. 2013).

The state first argues that the district court’s April 2019 order properly extended his probation under Minn. Stat. § 609.135, subd. 1c (2020). That section provides:

If the court orders a defendant to undergo treatment as a condition of probation and if the defendant fails to successfully complete treatment at least 60 days before the term of probation expires, the prosecutor or the defendant’s probation officer may ask the court to hold a hearing to determine whether the conditions of probation should be changed or probation should be revoked.

If the probation officer or prosecutor asks the district court to hold a hearing, the district court must “schedule and hold the hearing and *take appropriate action . . . before the defendant’s term of probation expires.*” Minn. Stat. § 609.135, subd. 1c (emphasis added). Action that the district court may take includes “extend[ing] a defendant’s term of probation for up to three years if it finds . . . that: (1) the defendant has failed to complete court-ordered treatment successfully; and (2) the defendant is likely not to complete court-

ordered treatment before the term of probation expires.” Minn. Stat. § 609.135, subd. 2(h) (2020).

DeHart contends that the district court lacked authority to extend his probation in April 2019 (and again in April 2020) because, due to the untimely filing of the request by the prosecutor, the district court did not grant the extension before the probationary period expired. We agree. DeHart signed, and the state submitted, the document requesting an extension and waiving DeHart’s right to a hearing more than a week *after* the probationary period expired, and the district court issued its order extending probation after that. Because the request was submitted and the district court’s order was filed after DeHart’s probationary term expired, the extension of DeHart’s probation was beyond the district court’s authority under section 609.135, subdivision 1c.

The state points to Minn. Stat. § 609.14 (2020) as an alternative statutory basis for the district court’s extension of DeHart’s probation. The state asserts that, under section 609.14, subdivision 3, the district court was authorized to extend probation as a consequence of DeHart’s probation violation of not completing treatment. *See* Minn. Stat. § 609.14, subd. 3(2) (providing that, if a probation violation is found, the district court may continue a stay and place the defendant on probation). The state observes that, in *State v. Barrientos*, the supreme court explained that “if the district court finds that the defendant has violated the conditions of her probation . . . it may extend the defendant’s period of probation under section 609.14, subdivision 3.” 837 N.W.2d 294, 301 (Minn. 2013).

DeHart does not take issue with the proposition that, under section 609.14, a district court may extend a defendant’s probation based on a finding of a probation violation. The

problem, he asserts, is that the district court ordered the extensions without any finding that DeHart violated probation. Thus, he contends, section 609.14 does not authorize the 2019 (or the 2020) extension.

Under section 609.14, subdivision 1(b), a prosecutor or probation officer can, within six months after the expiration of a stay, ask a district court to initiate probation-revocation proceedings under the Minnesota Rules of Criminal Procedure for probation violations that occurred during the term of the stay. Under Rule 27.04 of the Minnesota Rules of Criminal Procedure, a probation-revocation proceeding is initiated by a warrant or summons based on a written report showing probable cause to believe the probationer violated probation. Minn. R. Crim. P. 27.04, subd. 1(1)(a). At the first appearance on a warrant or summons, the district court must inform the probationer of the probationer's rights, including the right to a lawyer, including an appointed lawyer if the probationer cannot afford a lawyer, and the right to a hearing to determine whether clear and convincing evidence of a violation exists. *Id.*, subd. 2(1)(c). A timely revocation hearing must then be held. *Id.*, subd. 2(4)(a). If "the court finds or the probationer admits a probation violation," the court may continue the stay of imposition and order probation. *Id.*, subd. 3(2); *see also* Minn. Stat. § 609.14, subd. 3(2) ("If any of such grounds are found to exist the court may . . . continue such stay and place the defendant on probation").

Here, shortly after the expiration of the stay in 2019 (and again in 2020), the state filed a document, signed by DeHart, in which DeHart states his understanding that he is "entitled to a hearing in this matter as a result of the conditions of probation not being met" and that he has "a right to speak with an attorney regarding this matter." In it, he "ask[s]

the Court to extend the term of [his] probation for one year to allow more time to complete sex offender treatment and to pay off the financial obligations [he owes] in this matter.”

The state argues that the filing of this document within six months of the expiration of the stay in 2019 (and again in 2020) provided grounds for extension of probation under section 609.14 and rule 27. It explains,

[I]n lieu of a formal probation violation being filed, . . . the agent and the appellant decided to waive his right [to] the formal hearing and put an informal agreement before the court, where the appellant admitted he failed to complete treatment and asked for the intermediate sanction of extension of probation.

Even if we construed the document as timely initiating a probation-revocation proceeding, we disagree that it provided the basis under section 609.14 for the district court to extend DeHart’s probation after the expiration of his probationary term. The record includes no order of the district court finding a probation violation or acknowledging that DeHart admitted a violation. The document describes DeHart’s understanding that he “has a right to speak to an attorney regarding this matter,” but it is silent as to whether DeHart understands that he has a right to legal representation, including appointed counsel. The document does not identify the clear-and-convincing-evidence burden of proof that applies to an allegation of a probation violation. Nor does it state that DeHart made the waiver freely and voluntarily. The document also fails to describe what kind of hearing DeHart would be entitled to. The state argues that the document sufficiently waives a hearing under section 609.135. But a hearing under that statute would determine whether DeHart failed to successfully complete treatment and whether DeHart could successfully complete

treatment before his probation ended. A hearing under section 609.14 would determine whether clear and convincing evidence established a violation of one of DeHart's conditions of probation. On this record, section 609.14 did not authorize the district court's April 2019 order extending DeHart's probation.

Because the extension of DeHart's probation was not authorized under either section 609.135 or 609.14, DeHart's probation expired on March 11, 2019. The district court thus lacked the authority to revoke DeHart's probation for an alleged probation violation that occurred in July 2021. Because we conclude the district court lacked the authority to revoke DeHart's probation, we need not address DeHart's remaining arguments.

Reversed.