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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-1788**

State of Minnesota,  
Respondent,

vs.

Conner Douglas Knutson,  
Appellant.

**Filed April 14, 2014  
Affirmed  
Schellhas, Judge**

Olmsted County District Court  
File No. 55-CR-12-3663

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Mark A. Ostrem, Olmsted County Attorney, James P. Spencer, Assistant County  
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Stephen L. Smith, Assistant State Public Defender, The Law Firm of Stephen L. Smith,  
PLLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Stauber, Judge; and  
Klaphake, Judge.\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges probation revocation. We affirm.

### FACTS

Appellant Connor Knutson pleaded guilty to fleeing a police officer in a motor vehicle and, in October 2012, the district court stayed a 365-day sentence and placed Knutson on probation for two years. Knutson's probation conditions included that he remain law-abiding; participate with the LINK program, which helps participants develop independent living skills; and maintain contact with probation.

In June 2013, Knutson's probation officer alleged that Knutson violated probation by failing to remain law-abiding—he incurred more than ten charges that led to at least three convictions; he failed to participate in the LINK program; and he failed to meet even once with probation. The probation officer recommended revoking Knutson's probation and sentencing him to 365 days in jail. At his probation-violation hearing, Knutson admitted the following violations: he failed to remain law-abiding, which resulted in three convictions for driving after revocation; he failed to participate in LINK; and he failed to report to probation. Knutson stated that he knew that his participation in LINK was part of his probation but failed to participate because he “just didn't want to go,” and he stated that he knew he should report to probation but was busy with an activity he could not remember. Knutson admitted that his failure to report to probation was intentional and inexcusable.

The district court accepted Knutson's admissions to the probation violations, found that the violations were intentional and inexcusable, found that the need for confinement outweighs the benefits of probation, revoked Knutson's probation, and vacated the stay of his sentence. This appeal follows.

## D E C I S I O N

After an offender violates probation, the district court may continue probation, impose intermediate sanctions, or revoke probation and execute the stayed sentence. Minn. Stat. § 609.14, subd. 3 (2012). "When determining if revocation is appropriate, courts must balance the probationer's interest in freedom and the state's interest in insuring his rehabilitation and the public safety." *State v. Modiland*, 695 N.W.2d 602, 606–07 (Minn. 2005) (quotation omitted).

In *State v. Austin*, 295 N.W.2d 246, 250 (Minn. 1980), the supreme court explained the importance of careful consideration before revoking probation: "The purpose of probation is rehabilitation and revocation should be used only as a last resort when treatment has failed. There must be a balancing of the probationer's interest in freedom and the state's interest in insuring his rehabilitation and the public safety." "[R]evocation should be used only as a last resort when treatment has failed." *State v. Osborne*, 732 N.W.2d 249, 253 (Minn. 2007) (quotation omitted). Revocation cannot be an impulsive response to technical violations; it requires a showing that the defendant cannot be expected to avoid harmful or disruptive behavior that may endanger the public. *Austin*, 295 N.W.2d at 251. To ensure that these principles are satisfied, before revoking a defendant's probation, a district court must satisfy what are commonly referred to as the

*Austin* factors. The district court “must make specific findings on all three *Austin* factors before revoking probation.” *State v. Cottew*, 746 N.W.2d 632, 636–37 (Minn. 2008). The court must “(1) specifically identify the condition or conditions violated; (2) find that the violation was intentional or inexcusable; and (3) find that the policies favoring probation no longer outweigh the need for confinement.” *State v. Barrientos*, 837 N.W.2d 294, 299 n.2 (Minn. 2013) (citing *Austin*, 295 N.W.2d at 250). An appellate court will not reverse a district court’s exercise of its “broad discretion in determining if there is sufficient evidence to revoke probation” absent “a clear abuse of that discretion.” *Osborne*, 732 N.W.2d at 253 (quotation omitted).

In this case, two of the *Austin* factors—identification of the conditions violated and a finding that the violations were intentional or inexcusable—are not at issue. The third *Austin* factor—whether the policies favoring probation no longer outweigh the need for confinement—is at issue. Knutson argues that the district court abused its discretion by revoking his probation, arguing that the public policies that favor probation outweigh the need for confinement. We disagree.

In considering the third *Austin* factor, a district court should consider whether confinement is necessary to protect the public from further criminal activity by the offender, whether the offender is in need of correctional treatment which can most effectively be provided if he is confined, and whether declining to revoke probation would unduly depreciate the seriousness of the violation. *Austin*, 295 N.W.2d at 251. Here, the district court stated as follows:

I wish you had taken advantage of the programming that was offered to you here, especially the LINK program. And frankly, you've blown off probation now since the very beginning. So, it's hard to believe that you're truly interested. You're so young. I wish you had been. But I do find really you're not amenable to probation right now. . . . [T]he need for confinement outweighs the benefits of probation. I execute the 365 days, give you credit for any time that you've served.

The evidence in this case amply supports the district court's finding that Knutson was not amenable to probation and that the policies favoring probation were outweighed by the need for confinement. "Revocation is justified when there is enough evidence to satisfy the decision-maker that the conduct of the offender does not meet the conditions of his release." *State ex rel. Guth v. Fabian*, 716 N.W.2d 23, 27 (Minn. App. 2006), *review denied* (Minn. Aug. 15, 2006). We conclude that the district court did not abuse its discretion by revoking Knutson's probation.

**Affirmed.**