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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0322**

State of Minnesota,
Respondent,

vs.

C.D.T.,
Appellant.

**Filed September 23, 2013
Affirmed
Rodenberg, Judge**

Ramsey County District Court
File Nos. 62-JV-10-479, 62-CR-12-9265

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Worke, Judge; and Smith, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant challenges the district court's order revoking his extended jurisdiction juvenile (EJJ) status and placing him on adult probation. We affirm.

FACTS

On February 9, 2010, appellant C.D.T. was charged with first-degree assault by delinquency petition in Ramsey County juvenile court. The state moved to certify him for adult prosecution under Minn. Stat. § 260B.125 (2008). By agreement, the state withdrew its certification motion, and appellant admitted the allegations of the petition and agreed to be designated as an EJJ.¹ By disposition order dated April 29, 2010, the district court adjudicated appellant delinquent, imposed an adult sentence of 117 months imprisonment, stayed the execution of that sentence, designated him as an EJJ until his 21st birthday, and placed him on probation. Appellant's probation included conditions that appellant remain law-abiding and refrain from possessing and using drugs and alcohol. Appellant was also required to complete a 12- to 18-month program at Glen Mills School, which he completed in the fall of 2011.

On January 20, 2012, the district court received a probation violation report, alleging that appellant had failed to inform his probation officer about a speeding violation, a citation for possession of a small amount of marijuana, and a citation for underage consumption of alcohol. Appellant appeared in juvenile court and admitted the

¹ Minn. Stat. § 260B.130 (2008) refers to the "proceeding" as an "extended jurisdiction juvenile prosecution." For ease of reference, we refer herein to appellant as having been designated as an EJJ.

probation violations. The district court continued appellant's probation as an EJJ with the additional condition that appellant undergo a chemical dependency evaluation and follow the recommendations.

On July 24, 2012, a probation violation report was filed in juvenile court, alleging that appellant had assaulted his girlfriend in her home in Minneapolis and that he had fled after giving police a false name. Although appellant was later arrested, the state withdrew the probation violation claim before any hearing.

On November 7, 2012, a probation violation report was filed, alleging that appellant had been cited for possession of a small amount of marijuana. On November 16, another probation violation report was filed, alleging that appellant had again possessed marijuana, had failed to complete chemical dependency treatment, and had failed to notify probation about a shoplifting incident.

On November 19, 2012, appellant appeared before the district court and admitted the alleged probation violations. By agreement, appellant consented to revocation of his EJJ status and the state agreed to refrain from requesting execution of appellant's adult sentence. Determining that appellant's admitted probation violations were "knowing and intentional and without legal justification or excuse," the district court revoked appellant's EJJ status. The district court continued to stay execution of appellant's adult sentence of 117 months and placed him on adult probation on designated conditions, including that he serve six months in the Ramsey County Community Correctional Facility. But the district court failed to address the length of the adult probation. Within one hour, the parties returned to open court to discuss the district court's failure to

pronounce the length of appellant's term of adult probation. The state proposed a 20-year probation term, while appellant's attorney argued that appellant "would like for it to be less than 20 years' probation."

The court imposed a term of probation of up to 20 years, the statutory maximum. Appellant did not move the district court to withdraw his admission to having violated his EJJ probation. This appeal followed.

D E C I S I O N

Appellant challenges the district court's revocation of his EJJ status, arguing that the waiver of his right to a contested probation revocation hearing and his agreement to revocation of his EJJ status were made without appellant being fully informed of the possible duration of adult probation. Appellant urges us to reverse the revocation of his EJJ status and remand to the district court for a new revocation hearing. Although appellant does not dispute the district court's authority to impose a 20-year adult probation term, he maintains that he was not aware of that possibility when he admitted the violations.

The decision of whether to revoke probation is within the district court's broad discretion, and we will reverse a probation revocation only if there is an abuse of that discretion. *In re Welfare of R.V.*, 702 N.W.2d 294, 298 (Minn. App. 2005). A juvenile may "knowingly, voluntarily, and intelligently" waive the right to an EJJ proceeding if he or she is "fully and effectively informed of all rights by counsel." Minn. R. Juv. Delinq. P. 19.04, subd. 1(C). In determining whether the juvenile has knowingly, voluntarily, and intelligently waived his or her right to a contested proceeding, the totality of the

circumstances must be considered, including the presence of the juvenile's parent or legal guardian and the juvenile's "age, maturity, intelligence, education, experience, and ability to comprehend the proceedings and consequences." *Id.*

Appellant argues that his waiver and his admission of probation violations at his EJJ probation revocation hearing were the equivalent of a guilty plea, which must be "accurate, voluntary and intelligent." He claims that, because he was unaware of the possibility of a 20-year adult probation term when he admitted violating his EJJ probation, his admission was not made intelligently.

Appellant originally pleaded guilty in 2010 pursuant to a plea agreement whereby the state withdrew a motion for adult certification. Appellant was designated as an EJJ until his 21st birthday. The district court did not then advise appellant of the potential 20-year probation term in the event that his EJJ status were to be revoked. There was good reason for the district court not to have then specifically discussed the maximum length of a possible future adult probation. No adult probation was being considered. Appellant was being designated as an EJJ with potential future consequences, which included a 117-month prison sentence. At the point appellant was designated as an EJJ, no one could have anticipated what might be the length of a future adult probation term.

The record establishes that, at the time of the last revocation hearing, appellant already had prior probation violations, was represented by counsel, and had negotiated an agreement whereby his stayed adult sentence would not be executed despite his admitted EJJ violations. He would instead be placed on adult probation with some executed jail time. The length of probation was not specifically argued initially, and there appears not

to have been any agreement about the length of the adult probation. Within the hour, it was discovered that the district court had omitted pronouncing the length of adult probation. The district court remedied this by allowing the issue of the length of probation to be presented for the district court's decision in open court. Neither party made any attempt or request to withdraw from the agreement for appellant to admit the violation, and no claim was made by either party that the agreement included any provision for a length of probation. Because the parties appear to have had no prior agreement concerning the probation term, neither appellant's counsel nor the district court could have "informed [appellant] of the length of probation" prior to his admission of the violations. Both attorneys specifically referred to the possibility of a 20-year probation term in their respective arguments on the issue of the term of probation. Appellant's argument for a probation term of less than 20 years establishes that he was informed of the maximum possible length of adult probation before the probation term was imposed. The attorneys were arguing that very issue in his presence and in open court.

Even after the district court decided the issue of length of probation, appellant, who was represented by counsel, did not move or otherwise request to withdraw his admission to the probation violation. There was no expression of surprise or any indication of lack of awareness of the possibility of a 20-year probation by either appellant or his counsel. That the parties were disagreeing on the proper length of adult probation, both specifically referencing the possibility of a 20-year length of probation, conclusively establishes that appellant was aware of the possibility of a 20-year probation

term prior to that portion of his adult sentence being imposed at the continuation of the revocation hearing at which he admitted the violation.

Appellant also argues that the district court “did not inquire whether appellant wanted to withdraw his admissions and agreement to have his EJJ status revoked.” The parties had just argued the issue of the length of the adult probation and the court resolved it. Appellant identifies no reason or need for the district court to have elicited a motion to withdraw appellant’s admissions. Nor does appellant cite authority for the proposition that the district court was obligated to ask the parties whether its statutorily authorized disposition was acceptable to everyone. *Ganguli v. Univ. of Minn.*, 512 N.W.2d 918, 919 n.1 (Minn. App. 1994) (declining to address allegations unsupported by legal analysis or citation).

The district court did not abuse its discretion by finding that appellant validly waived his right to a contested revocation hearing. Neither did it err in accepting appellant’s admission to violating his EJJ probation. The district court did not abuse its discretion by revoking appellant’s EJJ status and imposing an adult probation term within the statutory maximum term of probation.

Affirmed.