

FILED

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Clerk of the
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs August 19, 2026

STATE OF TENNESSEE v. WILEY VANOVER

Appeal from the Criminal Court for Sullivan County
Nos. S74905, S75889 James F. Goodwin, Jr., Judge

No. E2025-01431-CCA-R3-CD

The Defendant, Wiley Vanover, pled guilty to multiple offenses in two cases. The trial court imposed an effective six-year sentence and placed the Defendant on probation. Thereafter, the Defendant violated the conditions of his probation, and the trial court revoked the suspended sentence in part and ordered him to serve five of the six years in custody. On appeal, the Defendant admits that he violated his probation conditions but asserts that the trial court should have imposed a lesser sanction, such as reinstatement to probation or split confinement. Upon our review, we conclude that the record does not contain the findings necessary for this court to conduct meaningful appellate review of the consequence determination as required by *State v. Dagnan*, 641 S.W.3d 751 (Tenn. 2022). Accordingly, we respectfully vacate the revocation orders and remand the case to the trial court for further findings regarding the appropriate consequence for the violations.

Tenn. R. App. P. 3 Appeal as of Right;
Judgment of the Criminal Court Affirmed in Part and Vacated in Part;
Case Remanded

TOM GREENHOLTZ, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and ROBERT L. HOLLOWAY, JR., JJ., joined.

Andrew J. Gibbons, District Public Defender; and Randall D. Fleming, Assistant District Public Defender (on appeal); and G. Todd East, Kingsport, Tennessee (at hearing), for the appellant, Wiley Vanover.

Jonathan Skrmetti, Attorney General and Reporter; Lacy E. Wilber, Senior Assistant Attorney General; Barry P. Staubus, District Attorney General; and Kristen E. Rose, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTUAL BACKGROUND

A. THE UNDERLYING CONVICTIONS AND PROBATION

On February 24, 2025, the Defendant pled guilty in two cases in the Criminal Court for Sullivan County. In Case 1 (No. S74905), he pled guilty to retaliation for past action, evading arrest, possession of methamphetamine, possession of drug paraphernalia, and public intoxication. In Case 2 (No. S75889), he pled guilty to possession of contraband in a penal facility and possession of methamphetamine.

The trial court imposed an aggregate two-year sentence in Case 1 and a four-year sentence in Case 2. The court ordered the sentences to run consecutively, resulting in a total effective six-year sentence. The trial court suspended the sentence and placed the Defendant on supervised probation subject to various conditions, including that he not use or possess alcohol or illegal drugs.

Two months later, the Tennessee Department of Correction (“TDOC”) filed a probation violation report alleging that the Defendant committed various violations, including missing office visits, a drug screen, and a home visit. The report also alleged that he engaged in threatening behavior toward supervision staff. The trial court held a violation hearing on August 20, 2025.

B. THE VIOLATION HEARING

The Defendant’s probation officer, Aaron Blevins, testified that the Defendant tested positive for methamphetamine and ecstasy at intake. He said that the Defendant was scheduled to attend a behavioral-intervention class on Wednesdays at 6:00 p.m. to accommodate his work schedule. The Defendant failed to attend these classes on four separate occasions, resulting in his discharge from the class. Officer Blevins testified that

the Defendant was not home for a rescheduled home visit on April 15, 2025, and failed to report to the office as instructed on April 22 and 23, 2025, missing a scheduled drug screen on the latter date. On cross-examination, Officer Blevins acknowledged that the Defendant told him he could not attend the April 22 appointment because of a work issue and because he lacked a vehicle and driver's license.

Officer Blevins testified that during a phone call on March 31, 2025, the Defendant became argumentative and said that if Officer Blevins "continued to poke the bear, sooner or later [he] will get the bear." He also testified that the Defendant had been "very aggressive with our secretary and security guard" at intake, requiring a later assessment to be conducted in a recorded booth. The officer described the Defendant as one of the most hostile and difficult probationers he had supervised.

The Defendant testified that his communication skills were poor. He explained that he tested positive for drugs at intake because the drugs were already in his system before his plea. He added that he forgot about the Wednesday classes because he was working.

The Defendant also testified that reporting to the probation office cost him his construction job. He stated that he had neither a vehicle nor a driver's license and that he relied on his girlfriend for transportation. He became "stuck" when she was unavailable.

The Defendant explained that his "poke the bear" comment reflected his perception that the probation staff was provoking him, though he agreed the statement could suggest that he would shoot someone. He initially testified that he did not believe he needed to report every day and, on further questioning, stated that "four times a week is enough." He acknowledged his prior probation for theft and a felony arson conviction, though he did not recall a prior assault conviction. He testified that his driver's license had been revoked since age nineteen because of two DUI convictions.

C. THE TRIAL COURT'S RULING

Following the hearing, the trial court found that the State proved violations of the following probation conditions:

- Rule 6, requiring the Defendant to report as instructed and comply with lawful instructions from his probation officer;

- Rule 8, prohibiting intoxicants and requiring compliance with drug screens; and
- Rule 14, prohibiting assaultive or threatening behavior.¹

Before announcing the consequence of the violations, the trial court explained that it would not tolerate the Defendant's treatment of probation staff. The court told the Defendant that he understood the difference between right and wrong and needed to "start acting like it." The court further stated that it had "no doubt that [the Defendant] is pretty good at his job" and that "he looks like he could work pretty hard," but concluded that he would serve his sentences "because of the violation."

Ultimately, the trial court ordered the Defendant to serve the four-year sentence imposed in Case 2 and the eleven-month, twenty-nine-day sentence imposed for possession of methamphetamine in Case 1. The trial court revoked and reinstated the remaining sentences in Case 1.

The trial court filed its revocation orders on August 21, 2025. The Defendant filed a timely notice of appeal twenty-eight days later. *See* Tenn. R. App. P. 4(a).

STANDARD OF APPELLATE REVIEW

For every issue raised on appeal, we must first determine the appropriate standard of appellate review. *State v. Enix*, 653 S.W.3d 692, 698 (Tenn. 2022). The principal issue in this case is whether the trial court properly revoked the Defendant's suspended sentences.

We review this issue for an "abuse of discretion with a presumption of reasonableness so long as the trial court places sufficient findings and the reasons for its decisions as to the revocation and the consequence on the record." *State v. Dagnan*, 641 S.W.3d 751, 759 (Tenn. 2022). However, if the trial court does not make such findings, then this court "may conduct a de novo review if the record is sufficiently developed for

¹ The court also found that the Defendant had failed to pay fees, fines, and costs as required by Rule 9. However, the court also stated that it was "not basing any part of [its] decision" on the Rule 9 violation.

the court to do so, or [we] may remand the case to the trial court to make such findings.” *Id.*

ANALYSIS

In this appeal, the Defendant argues that the trial court abused its discretion in impartially revoking his suspended sentences as a consequence of his violations. Specifically, he asserts that the trial court should have given greater weight to his lack of prior violations and his steady employment. The Defendant further contends that the court should have imposed additional probation conditions or ordered a period of split confinement.

The State responds that the trial court acted within its discretion to revoke the Defendant’s suspended sentences. In the State’s view, the several instances of misconduct documented at the hearing gave the trial court ample basis for its decision.

We affirm the trial court’s finding that the Defendant violated the conditions of his suspended sentences. However, we respectfully vacate the revocation orders and remand the case for the trial court to place its findings on the record regarding the appropriate consequence, consistent with *Dagnan* and this opinion.

When a trial court imposes a sentence for criminal conduct, it may suspend the sentence for an eligible defendant and place that defendant on probation. *See* Tenn. Code Ann. §§ 40-35-103; 40-35-303(b) (2025). The trial court “may also require the defendant to comply with conditions of probation that are reasonably suited to facilitate rehabilitation or protect the safety of the community.” *State v. Noel*, 729 S.W.3d 315, 322 (Tenn. Crim. App. 2025); *see also* Tenn. Code Ann. § 40-28-302(1) (2025).

As long as a defendant complies with the conditions of the suspended sentence, the defendant will remain on probation until the sentence expires. *See State v. Rand*, 696 S.W.3d 98, 103 (Tenn. Crim. App. 2024). However, if a defendant violates a condition of probation, then the trial court may address the violation as it “may deem right and proper under the evidence,” subject to various statutory restrictions. Tenn. Code Ann. § 40-35-311(d) (2025). As such, the nature of a probation revocation proceeding entails a two-step process with “two distinct discretionary decisions.” *Dagnan*, 641 S.W.3d at 757. The first step is to determine whether the defendant has violated a condition of probation, and the second is to determine the appropriate consequence of that violation. *Id.*

A. THE VIOLATION DETERMINATION

As to the first step, a trial court may not find a violation of probation unless the record establishes the violation by a preponderance of the evidence. *See* Tenn. Code Ann. § 40-35-311(d)(1); *State v. Williams*, 673 S.W.3d 255, 259 (Tenn. Crim. App. 2023). When a defendant is on probation for a felony offense, the probation revocation statutes distinguish between technical and non-technical violations, and the consequences for each type of violation differ. *See* Tenn. Code Ann. § 40-35-311(e); *Noel*, 729 S.W.3d at 324-25.² For example, when a felony probationer commits a non-technical violation, the trial court's authority to impose a consequence is broad. In that circumstance, the court may fully revoke a suspended sentence even if the probationer has no history of prior violations. *See* Tenn. Code Ann. § 40-35-311(e)(2); *Rand*, 696 S.W.3d at 103-04. A non-technical violation includes, among other things, absconding, committing a new felony or Class A misdemeanor offense,³ or engaging in conduct that is a "zero tolerance" violation as defined by the TDOC supervision sanction matrix. *See* Tenn. Code Ann. § 40-35-311(g).

In this case, the Defendant was on probation for two felony and several misdemeanor convictions. The trial court found that the Defendant violated the conditions of his probation by failing to report as instructed; failing to comply with lawful instructions from his probation officer; unlawfully using intoxicants; and engaging in assaultive or threatening behavior. The Defendant does not challenge these findings on appeal or otherwise contest whether he engaged in conduct that constitutes a "zero tolerance" violation. Accordingly, we affirm the trial court's finding that the Defendant committed a non-technical violation of his probation conditions. *Cf. State v. Thompson*, No. M2023-01424-CCA-R3-CD, 2024 WL 3549189, at *3 (Tenn. Crim. App. July 26, 2024) (finding

² The same is not true for a defendant who is placed on probation for a misdemeanor offense. In that case, the technical nature of the violation does not limit the trial court's revocation authority. *See Noel*, 729 S.W.3d at 325 (recognizing that, in the case of a misdemeanor suspended sentence, the trial court "may fully revoke such a sentence based on either a technical or non-technical violation, even if the defendant has not previously violated the terms of probation"); *see also* Tenn. Code Ann. § 40-35-311(d).

³ New criminal conduct may itself be a technical violation if it consists of a Class B or C misdemeanor. In that case, the trial court may fully revoke a defendant's suspended felony sentence when the conduct results in a fourth or subsequent revocation. *See* Tenn. Code Ann. § 40-35-311(e)(1); *State v. Penny*, No. W2023-00912-CCA-R3-CD, 2024 WL 1803264, at *2 n.1 (Tenn. Crim. App. Apr. 25, 2024), *perm. app. denied* (Tenn. Oct. 25, 2024).

substantial evidence of a violation where the defendant did not contest the fact of a non-technical violation of probation), *no perm. app. filed*.

B. THE CONSEQUENCE DETERMINATION

As to the second step, “the consequence determination essentially examines whether the beneficial aspects of probation are being served and whether the defendant is amenable to continued probation.” *Rand*, 696 S.W.3d at 106 (citation and internal quotation marks omitted). As the supreme court observed in *Dagnan*, a trial court may consider factors relevant to the nature and seriousness of the present violation, the defendant’s previous history on probation, and the defendant’s amenability to future rehabilitation. *See Dagnan*, 641 S.W.3d at 759 n.5. Factors important to a defendant’s amenability to correction may include the defendant’s acceptance of responsibility and genuine remorse, as well as whether the defendant will comply with orders from the court meant to ensure his or her effective rehabilitation. *Rand*, 696 S.W.3d at 106; Tenn. Code Ann. § 40-35-102(3)(C) (2025). The trial court “may also consider whether the defendant poses a danger to the community.” *Noel*, 729 S.W.3d at 326; Tenn. Code Ann. § 40-28-302(1).

In its oral ruling, the trial court cited the Defendant’s violations as the reason for the revocation of the sentences challenged here. While that observation established that a violation occurred, *Dagnan* cautions that the consequence determination must extend beyond simply acknowledging that fact. *See Dagnan*, 641 S.W.3d at 758 (“Simply recognizing that sufficient evidence existed to find that a violation occurred does not satisfy this burden [as to the consequence determination].”).

Here, the record shows that the trial court was clearly concerned about the Defendant’s poor attitude while on probation and his treatment of the probation officers. However, the record contains no findings connecting that conduct to several relevant considerations. For example, the record does not address the Defendant’s acceptance of responsibility, his remorse, or his continued amenability to continued supervision and rehabilitation. Nor does the record address any public-safety concerns or whether less restrictive measures were considered and found to be inadequate. *See, e.g., State v. Koontz*, No. E2025-01042-CCA-R3-CD, 2026 WL 1741395, at *4 (Tenn. Crim. App. June 17, 2026), *no perm. app. filed*; *see also Dagnan*, 641 S.W.3d at 759 n.5; *Noel*, 729 S.W.3d at 326; *Rand*, 696 S.W.3d at 106.

Importantly, a trial court is not required to expressly address each of these considerations, among others, in every case. *See State v. Rouse*, No. E2024-01069-CCA-R3-CD, 2025 WL 2504663, at *3-4 (Tenn. Crim. App. Sept. 2, 2025), *no perm. app. filed*. Instead, we observe only that the record here contains no explanation, beyond the fact that a violation occurred, for why revocation was chosen as the appropriate consequence.

Accordingly, we respectfully remand this case to the trial court to place on the record its findings regarding the consequence determination. As *Dagnan* made clear, it is “not necessary for the trial court’s findings to be particularly lengthy or detailed,” but they must be sufficient to promote meaningful appellate review. *See Dagnan*, 641 S.W.3d at 759; *see also, e.g., State v. Martin*, No. M2024-00876-CCA-R3-CD, 2025 WL 574301, at *4 (Tenn. Crim. App. Feb. 21, 2025) (“Because simply recognizing that sufficient evidence existed to find that a violation occurred does not satisfy the trial court’s burden with respect to the consequence determination, we are constrained to remand for the trial court to place on the record its reasoning for the consequence imposed.” (citation modified)), *no perm. app. filed*. We otherwise express no view on the appropriate consequence for the Defendant’s violations.

CONCLUSION

In summary, we affirm the trial court’s determination that the Defendant committed a non-technical violation of his probation. However, the record does not contain sufficient findings to permit meaningful appellate review of the trial court’s consequence determination. We, therefore, respectfully vacate the orders revoking the Defendant’s suspended sentences and remand this case to the trial court. On remand, the trial court shall place its findings on the record regarding the appropriate consequence, consistent with *Dagnan* and this opinion.

s/ *Tom Greenholtz*

TOM GREENHOLTZ, JUDGE