

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 15, 2026

FILED

07/29/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. MARCUS WADE

Appeal from the Circuit Court for Dickson County
No. 22CC-2016-CR-59 David D. Wolfe, Judge

No. M2025-01693-CCA-R3-CD

Defendant, Marcus Wade, appeals the judgment of the Circuit Court for Dickson County revoking his probation and ordering execution of his original ten-year sentence. He argues that the trial court erred by considering hearsay evidence obtained from the Texas Board of Pardons and Paroles website to find that he absconded from probation supervision. Following a review of the entire record, the briefs of the parties, and the applicable law, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

JILL BARTEE AYERS, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and TOM GREENHOLTZ, JJ. joined.

Zachary L. Talbot, Assistant Public Defender, Ashland City, Tennessee, for the appellant, Marcus Wade.

Jonathan Skrmetti, Attorney General and Reporter; Benjamin A. Ball, Senior Assistant Attorney General; Michael J. Hurst, Qualified Law Student Approved Under Tenn. Sup. Ct. R. 7, Sec. 10.03; Ray Crouch, District Attorney General; and Sarah Wojnarowski, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

On October 9, 2018, Defendant pled guilty to conspiracy to distribute less than 300 grams of methamphetamine with an agreed sentence of ten years to be served on supervised probation. On January 28, 2020, a probation violation warrant was issued alleging Defendant violated Rules 6 and 8 of his probation by absconding from supervision in Texas and testing positive for amphetamine and methamphetamines on April 12, 2019, and July 10, 2019. On October 26, 2021, the trial court entered an order striking the case from the docket “on default of [Defendant] pursuant to Tennessee Code Annotated 40-15-101(a), with a capias provided in Tennessee Code Annotated 40-15-101(b), and upon [Defendant’s] arrest or return to the State of Tennessee, the case to be proceeded with as if not stricken from the docket.” On July 30, 2025, a second probation violation warrant was issued for the same violations.

Defendant appeared for a probation violation hearing on September 29, 2025. Tennessee Board of Probation and Parole Officer Christina Bright testified that after Defendant was initially placed on probation, his request to have his supervision transferred to Texas was approved on October 22, 2018. The Texas Board of Pardons and Paroles “maintain[s] records on-line in regards to probationers reporting drug screens and all of the different information that they receive while on probation as a part of their official records[.]” Officer Bright reviewed Defendant’s “official records” from the Texas probation officers. When Officer Bright was asked about the basis for the violation warrant issued on July 30, 2025, defense counsel objected, and the following exchange took place:

[Defense Counsel]: Objection to the foundation.

[State]: Judge, I believe I laid a proper foundation in regards to official business records.

THE COURT: Overrule the objection.

[Defense Counsel]: May I respond to that?

THE COURT: Yes.

[Defense Counsel]: Thank you, Your Honor. There was some description of official records from Texas Probation, but there was no description of what those records, how they were accessed or what those records are that would give us any idea of whether they are reliable or not. Are these notes from a case file, are they - - What even are they, is supposed to be the question. That could be established through foundation.

[State]: Judge, I believe we asked for these on-line records that were maintained by the Board of Probation and Parole and the Officers in Texas.

THE COURT: That was the testimony I understand, that it was - - they were the official records of the Texas Department of Pardons and Paroles, Probation and Parole, and that they were accessible through this local probation office via the internet or through these records. So overrule the objection.

Officer Bright then testified that Texas “closed the interest of the case for the offender absconding from probation.” She said they had made “multiple diligent attempts at trying to get him to report and failed to do so.” Defendant also tested positive on two separate dates for amphetamine and methamphetamine. Defense counsel then objected to hearsay as to “any testimony about the test results given” as there was no “lab affidavit tendered in this case.” Officer Bright was then asked if she was aware of any lab affidavits from the Texas Board of Pardons and Paroles, and she said: “I just have the lab results that they sent me.” She did not know if the affidavit was accessible at that point. The trial court then sustained defense counsel’s objection to the lab results.

Officer Bright testified that the records from Defendant’s Texas probation officer indicated that “[h]e failed to report on July 10th of 2019, August 10th of 2019, August 27th of 2019. They had attempted home visits to try to locate him as well as sending text messages, calling him, and calling and speaking with his roommate. All in attempts to try to contact [Defendant].” Officer Bright did not know if Defendant was required to report monthly. She noted that Defendant had been served with the second probation violation warrant on September 14, 2025, and agreed he had absconded from probation for six years.

Defendant testified that he was “born and raised” in Houston, Texas, and had lived there his entire life. He met with a Texas probation officer after his probation was transferred from Tennessee. His supervision began in October of 2018, and he was required to report monthly. He last met with his probation officer in June 2019. When asked why he stopped reporting, Defendant said: “The [COVID-19] pandemic happened.¹ The pandemic happened and the whole city shut down.” He further asserted that he called the Texas probation office in July, August, and September of 2019 and “[t]hey told me someone would be in touch with me to let me know when to come back to visit.” He said he had never missed a meeting before that time. Defendant testified that no one from the Texas Board of Pardons and Paroles contacted him even though he had lived at the same address and had the same cell phone number for fifteen years and had worked as a mechanic in his own shop for five years, “probably two blocks” from his house.

¹ On March 11, 2020, the World Health Organization classified COVID-19 as a global pandemic. Op. Tenn. Att’y Gen. 20-14 at *1-2 (July 24, 2020) (internal citations and footnotes omitted). Tennessee Governor Bill Lee declared a state of emergency in response to the pandemic on March 12, 2020. *Id.* at *1.

On cross-examination, Defendant agreed that he stopped reporting in July of 2019 and had not visited the probation office because “[t]hey said someone will be in contact with me.”

The trial court pointed out that it was Defendant’s duty to ensure his compliance with all the “terms and requirements” of probation and that the COVID-19 pandemic began in March 2020 rather than 2019. The trial court further concluded:

I do not believe [Defendant’s] testimony to be credible regarding his statements that, you know, the Probation Officer stopped calling him, nor do I find it credible that he simply sat back and waited for Probation to find him rather than him being proactive.

* * *

In any event, six years have gone by roughly and he has not reported or done anything. To simply say I’m going to put him back on Probation allows him to escape a sentence for six years and not have to serve that sentence. So I am of the opinion that the State’s evidence complied with the rules regarding a violation of probation hearing that allows reputable hearsay to come in, and the records of the Department of Correction, Probation and Parole out of the State of Texas that were made available online, and that our Probation Department had to rely upon those records to be able to insure that a person is being monitored correctly, and for those reasons I allowed that introduction of those records over the objection of the defendant.

If a higher Court says that was not correct then that’ll be up to them, but this Court is of the opinion that the State has met its burden and that the defendant is in fact guilty of violating his Probation and that this Court finds that he should be revoked to serve his sentence.

Defendant filed a timely notice of appeal.

Analysis

Defendant argues that the trial court erred by relying on hearsay evidence to revoke his probation. The State responds that any error in admitting the hearsay testimony was harmless and that the trial court properly revoked Defendant’s probation based on Defendant’s testimony that he absconded from supervision. We agree with the State.

It is within a trial judge's discretionary authority to revoke a defendant's probation upon finding by the preponderance of the evidence that a defendant has violated the conditions of his or her probation. See T.C.A. § 40-35-311(d)(1); *State v. Shaffer*, 45 S.W.3d 553, 554 (Tenn. 2001); see also *State v. Harkins*, 811 S.W.2d 79, 82 (Tenn. 1991). We review the trial court's decision to revoke probation for 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). When the trial court fails to place its reasons on record, the reviewing court may either conduct a *de novo* review if the record is sufficiently developed for the court to do so or remand the case to the trial court to make findings. *Id.* (citing *State v. King*, 432 S.W.3d 316, 327-28 (Tenn. 2014)); see also *State v. Stewart*, No. M2021-00595-CCA-R3-CD, 2022 WL 1236982, at *3 (Tenn. Crim. App. Apr. 27, 2022). "In order for a reviewing court to be warranted in finding an abuse of discretion in a probation revocation case, it must be established that the record contains no substantial evidence to support the conclusion of the trial judge that a violation of the conditions of probation has occurred." *State v. Farrar*, 355 S.W.3d 582, 586 (Tenn. Crim. App. 2011) (quoting *Harkins*, 811 S.W.2d at 82); see *State v. Delp*, 614 S.W.2d 395, 398 (Tenn. Crim. App. 1980); see also *State v. Phelps*, 329 S.W.3d 436, 443 (Tenn. 2010) (citing *State v. Jordan*, 325 S.W.3d 1, 38-40 (Tenn. 2010)) ("A trial court abuses its discretion when it applies incorrect legal standards, reaches an illogical conclusion, bases its ruling on a clearly erroneous assessment of the proof, or applies reasoning that causes an injustice to the complaining party.").

A trial court must engage in a "two-step consideration" when determining whether to revoke a defendant's probation. *Dagnan*, 641 S.W.3d at 757. As explained by the Tennessee Supreme Court, "[t]he first [step] is to determine whether to revoke probation, and the second is to determine the appropriate consequence upon revocation." *Id.* If a trial court finds by a preponderance of the evidence that a defendant violated his or her probation, then it is within the trial court's discretionary authority to revoke the defendant's probation. T.C.A. § 40-35-311(d)(1), (2); *Dagnan*, 641 S.W.3d at 756; *State v. Beard*, 189 S.W.3d 730, 734-35 (Tenn. Crim. App. 2005). Once a trial court decides to revoke a defendant's probation, it must then determine the appropriate consequences of the revocation. *Dagnan*, 641 S.W.3d at 756. The trial court may "impose one of several alternative consequences: (1) order incarceration for some period of time; (2) cause execution of the sentence as it was originally entered; (3) extend the defendant's probationary period by up to two years; or (4) return the defendant to probation on appropriate modified conditions." *State v. Daniel*, No. M2021-01122-CCA-R3-CD, 2022 WL 6644369, at *2 (Tenn. Crim. App. Oct. 11, 2022) (quoting *Dagnan*, 641 S.W.3d at 756). A trial court's findings do not have to be "particularly lengthy or detailed but only sufficient for the appellate court to conduct a meaningful review of the revocation decision." *Dagnan*, 641 S.W.3d at 759.

It is well-established that “the full panoply of rights due a defendant” in a criminal proceeding does not extend to probation revocations. *State v. Wade*, 863 S.W.2d 406, 409 (Tenn. 1993). “However, since a probationer’s conditional freedom from incarceration is at risk, he must be afforded due process in the revocation proceeding.” *Id.* This court has long recognized that the “strict rules of evidence do not apply at revocation hearings.” *State v. Lewis*, 917 S.W.2d 251, 257 (Tenn. Crim. App. 1995). Hearsay “is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Tenn. R. Evid. 801(c). Hearsay is generally inadmissible unless it qualifies as an exception. Tenn. R. Evid. 802.

“Reliable hearsay has been held admissible in a probation revocation hearing so long as the defendant had a fair opportunity to rebut the evidence.” *Lewis*, 917 S.W.2d at 257 (citing *State v. Carney*, 752 S.W.2d 513, 514 (Tenn. Crim. App. 1988)). In order to admit hearsay evidence, a trial court must find that “good cause” exists to justify the denial of the right to confront witnesses and that the hearsay evidence is reliable. *Wade*, 863 S.W.2d at 409.

Defendant first argues that the trial court erred by allowing Officer Bright to testify about information obtained from the Texas probation office to prove that Defendant absconded from probation. The State does not contest, and we agree that her testimony was hearsay. The trial court did not make any specific findings as to whether good cause existed to justify the denial of the right to confront witnesses and made very limited findings that the hearsay evidence was reliable. We conclude that Officer Bright’s testimony was not proven to be reliable. She testified that she looked on the Texas Board of Pardons and Paroles website to determine that Defendant had absconded from supervision. She had not obtained any official records or documentation from Texas to support her testimony. *See State v. Otten*, 721 S.W.3d 14, 19-20 (Tenn. Crim. App. 2025) (finding hearsay when “the State did not introduce any evidence of Defendant’s reporting history, his communications with Officer Raveling, or attempts by Officer Raveling to contact Defendant.”); *State v. Hill*, No. E2016-02314-CCA-R3-CD, 2017 WL 3769428, at *3 (Tenn. Crim. App. August 29, 2017) (finding that a Knox County probation officer’s testimony about a defendant’s failure to report to the Shelby County probation office was hearsay).

Nevertheless, we conclude that the error in admitting the hearsay testimony was harmless beyond a reasonable doubt. *See* Tenn. R. App. P. 36(b) (“A final judgment from which relief is available and otherwise appropriate shall not be set aside unless, considering the whole record, error involving a substantial right more probably than not affected the judgment or would result in prejudice to the judicial process.”); *See State v. Drake*, No. E2024-00165-CCA-R3-CD, 2024 WL 4719132, at *5 (Tenn. Crim. App.

Nov. 8, 2024), *no perm. app. filed*; *State v. Littrell*, No. W2022-01433-CCA-R3-CD, 2023 WL 6548679, at *3 (Tenn. Crim. App. Oct. 9, 2023), *no perm. app. filed*. Here, Defendant admitted he had not reported to his probation officer since July of 2019. Although he claimed the COVID-19 pandemic prevented his ability to report, the trial court correctly pointed out that the pandemic did not begin until 2020, well after Defendant stopped reporting. Additionally, the trial court found Defendant's testimony that the probation office had not contacted him since 2019 not to be credible.

Defendant's own testimony was sufficient to show that he absconded from probation and proved that he attempted to "hide, conceal, or absent [himself] clandestinely, with the intent to avoid legal process." *State v. Munn*, No. W2022-00675-CCA-R3-CD, 2023 WL 2607676, at *4 (Tenn. Crim. App. Mar. 23, 2023) (quoting *State v. Wakefield*, No. W2003-00892-CCA-R3-CD, 2003 WL 22848965, at *1 (Tenn. Crim. App. Nov. 25, 2003)); *see State v. Rand*, 696 S.W.3d 98, 105 (Tenn. Crim. App. 2024) (finding that "acts constituting absconding go beyond a single missed meeting where the probationer continues to report" and "is an act defined by the probationer's intent to avoid supervision more generally"); *State v. Taylor*, No. E2023-00791-CCA-R3-CD, 2024 WL 1526109, at *5 (Tenn. Crim. App. Apr. 9, 2024) (affirming the trial court's finding that the defendant absconded after failing to report to probation or contact his probation officer), *no perm. app. filed*; *State v. Herrick*, No. E2023-00984-CCA-R3-CD, 2024 WL 2272795, at *4 (Tenn. Crim. App. May 20, 2024) (finding that the defendant who "never reported to the probation office or made any effort to contact his probation officer for three years after failing to be present for a home visit" absconded), *no perm. app. filed*; *State v. Everett*, No. E2022-00189-CCA-R3-CD, 2022 WL 16643628, at *4 (Tenn. Crim. App. Nov. 3, 2022) (stating that "a sustained period of absconsion can show that the probationer has a complete disregard for the rehabilitative process and the orders of the court"). Thus, the trial court did not err in finding that Defendant violated the terms and conditions of his probation.

Defendant next argues that the trial court erred in ordering him to serve his sentence in the Department of Correction. A defendant who absconds commits a non-technical violation of probation and "may be subject to a full revocation of the suspended sentence even without prior violations or revocations." *Rand*, 696 S.W.3d at 104. Furthermore, "an accused, already on probation, is not entitled to a second grant of probation or another form of alternative sentencing." *State v. Jones*, No. E2023-00155-CCA-R3-CD, 2023 WL 6389810, at *3 (Tenn. Crim. App. Sept. 29, 2023) (quoting *State v. Shelton*, No. E2022-00875-CCA-R3-CD, 2023 WL 2261081, at *3 (Tenn. Crim. App. Feb. 28, 2023)), *no perm. app. filed*; *State v. Warfield*, No. 01C01-9711-CC-00504, 1999 WL 61065, at *2 (Tenn. Crim. App. Feb. 10, 1999); *see State v. Brumfield*, No. M2015-01940-CCA-R3-CD, 2016 WL 4251178, at *3 (Tenn. Crim. App. Aug. 10, 2016); *see also State v. Johnson*, No. M2001-01362-CCA-R3-CD, 2002 WL 242351, at *2 (Tenn.

Crim. App. Feb. 11, 2002). The record supports both the trial court's finding that Defendant was not a proper candidate to be placed back on probation and its decision to fully revoke his probation.

The trial court did not abuse its discretion in finding Defendant in violation of his probationary sentence and revoking his probation, nor in ordering him to serve his ten-year sentence in confinement. Defendant is not entitled to relief.

CONCLUSION

For the foregoing reasons, the judgment of the trial court is affirmed.

s/ *Jill Bartee Ayers*
JILL BARTEE AYERS, JUDGE