

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
August 11, 2026 Session

FILED

08/14/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. RICHARD WAYNE NORROD

Appeal from the Criminal Court for DeKalb County
No. 2024-CR-95 Wesley T. Bray, Judge

No. M2025-01873-CCA-R3-CD

The Defendant, Richard Wayne Norrod, appeals from the DeKalb County Criminal Court's probation revocation of the three-year sentence he received for his guilty-pleaded conviction for the sale or delivery of less than one-half gram of methamphetamine. On appeal, the Defendant contends that the trial court abused its discretion by revoking the Defendant's probation and ordering him to serve his sentence in confinement for a first technical violation. The State concedes that the court abused its discretion. We agree with the parties, and we reverse the judgment of the trial court and immediately reinstate the Defendant's probation.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Reversed

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER, P.J., and J. ROSS DYER, J., joined.

Craig Fickling, District Public Defender; Allison R. West and Tessa M. Nugent (on appeal), Assistant District Public Defenders; and David Scott Nimmo (at hearing), Assistant District Public Defender, for the appellant, Richard Wayne Norrod.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; Bryant C. Dunaway, District Attorney General; and James Gregory Strong, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

On November 4, 2024, the Defendant pleaded guilty to selling or delivering less than one-half gram of methamphetamine. He received a three-year sentence to be served on probation. The probation order reflects the special condition of "A/D assessment."

On July 23, 2025, a probation violation warrant was issued based on allegations that the Defendant committed his first technical probation violation. The warrant reflected (1) that on July 9, 2025, the Defendant left the court-ordered, long-term residential treatment program at Wooten House, that he was admitted into a treatment program at Freeman Recovery Center, and that the Defendant did not obtain permission prior to changing treatment programs, (2) that, as a result of leaving Wooten House, he violated Rule 5 that he will request permission from his probation officer before changing his residence or leaving the county of his residence, and (3) that the Defendant failed to report on July 16, 2025, as instructed for an alcohol and drug assessment, which violated Rule 10 requiring him to observe any special conditions imposed by the trial court. The warrant noted that the trial court ordered the Defendant to complete a long-term residential treatment program and an alcohol and drug assessment. The probation violation report reflected that this was the Defendant's first probation violation, which was initiated at the request of the prosecutor based upon the Defendant's "leaving his treatment program."

At the October 22, 2025 probation revocation hearing, probation officer Ioana Cunningham testified that as a condition of the Defendant's probation, the trial court ordered the Defendant to complete a residential treatment program and that the Defendant was permitted to obtain treatment at the Wooten House in Smith County. Ms. Cunningham stated that the Defendant did not complete the program at Wooten House. Ms. Cunningham said that she did not know why the Defendant left Wooten House but that the Defendant entered a treatment program at Freeman Recovery Center in Dickson County. When asked if personnel at Wooten House sent the Defendant to Freeman Recovery Center, she stated that "[i]t was never communicated with me if it was his decision or if they had sent him." She said, "Typically, they wouldn't send him to another one." She said that although the Defendant was required to communicate with her, he did not discuss the change in treatment facilities.

Ms. Cunningham testified that she last spoke with the Defendant on July 3, 2025, during a home visit. She said that she provided the Defendant with a card containing two dates on which he was required to report: (1) July 10, 2025, when he was required to report to her, and (2) July 16, 2025, when he was required to report for the alcohol and drug assessment. She said that the Defendant did not report for these appointments, that she later received an e-mail from Brandon Emmons at Freeman Recovery Center, and that Mr. Emmons informed her that the Defendant was admitted into the Freeman Recovery Center treatment program on July 9, 2025, and left without completing the program on July 16, 2025. Ms. Cunningham said the Defendant did not contact her after he left Freeman Recovery Center but that the Defendant was found at a home in Dickson County in August 2025.

On cross-examination, Ms. Cunningham testified that the present probation violation was the Defendant's first. She said that she was not the Defendant's initial probation officer, whom she said did not maintain any monthly progress reports in the Defendant's file, and that her file did not reflect that the Defendant spent eight months at Tennessee Bible College before entering treatment at Wooten House.¹ She agreed, though, that the Defendant had permission to enter the treatment program at Wooten House.

Ms. Cunningham testified that Freeman Recovery Center was a "TDOC-approved treatment program," offered long-term treatment, and employed a physician. She agreed that Wooten House was a halfway house, which did not employ a physician, and did not "offer treatment." She said halfway houses required a probationer to attend classes. She agreed that the Defendant had not failed any drug screens, had not been charged with any new offenses, and had not "work[ed] his way through the graduated sanction matrix." She agreed that the violation allegations were technical and that the probation violation warrant was requested by the prosecutor.

Upon questioning by the trial court, Ms. Cunningham testified that the Defendant served one-and-one-half months in confinement before he was placed on probation. When asked if she alleged that the Defendant absconded from supervision, she stated, "It is not in the warrant. . . . [I] was advised by my supervisors that I could not write the warrant for absconding."

The State argued that although the warrant alleged a technical violation, the testimony showed that the Defendant absconded from supervision because the Defendant did not report to Ms. Cunningham after leaving Freedman Recovery Center. The State requested that the court revoke the Defendant's probation and order him to serve the remainder of his sentence. The Defendant argued that he was provided notice regarding a technical violation and that "we all know what the Legislature did with technical violations." Defense counsel stated that the Defendant instructed counsel to inform the trial court that the Defendant was willing to serve 120 days in jail and return to a treatment program.²

¹ The probation violation report reflects, in relevant part, that on November 4, 2024, the Defendant received a three-year sentence on probation and was "given the special conditions to complete a long-term residential treatment program and alcohol/drug assessment. Offender was scheduled to be released to Crossville Mission Bible Training Center." The report, likewise, reflects that the Defendant was discharged from the Crossville Mission Bible Training Center on May 27, 2025, and that the Defendant was admitted to Wooten House on June 4, 2025.

² The record does not reflect counsel's reasoning for offering to resolve the probation revocation proceeding with the Defendant's serving jail time when statutory authority prohibits probation revocation after a first technical probation violation finding. *See* T.C.A. § 40-35-311(d)(2) (2025).

The trial court revoked the Defendant's probation and ordered him to serve the remainder of his sentence in confinement. The court credited and placed "great weight" on Ms. Cunningham's testimony. The court found that the Defendant violated his probation, without further explanation or reason. In considering the appropriate consequence, the court commended the Defendant's attempts to obtain treatment but stated that obtaining treatment had to be obtained "through the right channels" if the Defendant "want[ed] to be given credit and the appreciation of those things." The court found that the Defendant had obtained treatment from multiple programs and that "evidently none of them fit." The court expressed concern whether the Defendant would comply with the terms of any treatment program.

The trial court noted the Defendant's willingness to serve some jail time and stated that, as a Range I, standard offender, 30% service for a three-year sentence would require approximately one year of service before the Defendant became eligible for release. The court found that it would be doing the Defendant a "disservice" if it did not order the Defendant to serve his sentence in confinement, based on the proof and what the court understood "about how the Rachel Jackson Department processes your time." The court revoked the Defendant's probation and ordered him to serve the remainder of his sentence in confinement. This appeal followed.

The Defendant contends that the trial court abused its discretion by revoking his probation and ordering him to serve the remainder of his sentence because this is his first technical probation violation. The State agrees that the court abused its discretion by revoking the Defendant's probation. We agree with the parties.

"On appeal from a trial court's decision revoking a defendant's probation, the standard of review is 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). An abuse of discretion has been established when 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. Delp*, 614 S.W.2d 395, 398 (Tenn. Crim. App. 1980); *see State v. Shaffer*, 45 S.W.3d 553, 554 (Tenn. 2001); *State v. Grear*, 568 S.W.2d 285, 286 (Tenn. 1978). A finding of abuse of discretion "'reflects that the trial court's logic and reasoning was improper when viewed in light of the factual circumstances and relevant legal principles involved in a particular case.'" *Shaffer*, 45 S.W.3d at 555 (quoting *State v. Moore*, 6 S.W.3d 235, 242 (Tenn. 1999)). In probation revocation hearings, the credibility of witnesses is for the determination of the trial judge." *Carver v. State*, 570 S.W.2d 872, 875 (Tenn. Crim. App. 1978) (citing *Bledsoe v. State*, 387 S.W.2d 811, 814 (Tenn. 1965)).

When a trial court determines that a violation of probation has occurred and that a defendant's probation must be revoked, the court must then decide upon an appropriate consequence. *Dagnan*, 641 S.W.3d at 757. A separate hearing is not required, but the court must address the issue on the record in order for its decision to be afforded the abuse of discretion with a presumption of reasonableness standard on appeal. *Id.* at 757-58. "It is not necessary for the trial court's findings to be particularly lengthy or detailed but only sufficient for the appellate court to conduct a meaningful review of the revocation decision." *Id.* at 759 (citation omitted). Factors to be considered by a trial court upon revocation include a defendant's sincerity and amenability to rehabilitation. *Id.* at 758 (citation omitted). "When presented with a case in which the trial court failed to place its reasoning for a revocation decision on the record, the appellate court may conduct a de novo review if the record is sufficiently developed . . . or remand the case to the trial court to make such findings." *Dagnan*, 641 S.W.3d at 759 (citation omitted).

As a preliminary matter, the record reflects that the trial court failed to state the basis for its determination that the Defendant violated the conditions of his probation. The warrant alleged that the Defendant failed to obtain permission before leaving Wooten House and entering treatment at Freedman Recovery Center and failed to report for an alcohol and drug assessment. The court found that the Defendant violated the conditions of his probation without further explanation or reason. However, the court's statements when considering the appropriate consequence reflect that the basis for its finding that the Defendant violated the conditions of his probation was due to the Defendant's failure to complete the treatment program, which we note was not explicitly alleged in the probation violation warrant. The court commended the Defendant for attempting to obtain treatment but expressed concern that the Defendant would not comply with the terms of any treatment program before it ordered the Defendant to serve the remainder of his sentence in confinement. Further, the trial court failed to determine whether the Defendant committed a technical or non-technical probation violation by a preponderance of the evidence. However, the record reflects that the Defendant was not alleged to have committed non-technical probation violations, and the warrant allegations are technical in nature, which we discuss below. As a result, although the court failed to place its reasoning for determining that the Defendant violated the conditions of his probation by committing a technical or non-technical violation by a preponderance of the evidence, the record is sufficiently developed for our de novo review. *See Dagnan*, 641 S.W.3d at 759 (citation omitted).

An additional matter is worth addressing at this juncture. The probation violation warrant alleged that the Defendant failed to obtain permission before leaving Wooten House and entering treatment at Freedman Recovery Center and failed to report for an alcohol and drug assessment. The probation violation warrant contained in the appellate record and Ms. Cunningham's credited testimony reflect that the probation violation warrant did not allege that the Defendant had absconded from supervision. Despite the

absence of an absconding allegation in the probation violation warrant, the prosecutor argued at the hearing that the Defendant had absconded from supervision and requested that the court order the Defendant to serve the remainder of his sentence in confinement. We note that the Defendant stated at the revocation hearing that he was provided notice of a technical violation, which does not include absconding. We remind the State that principles of due process require proper written notice of the allegations that are a basis to revoke probation. *See State v. Wade*, 863 S.W.2d 406, 408 (Tenn. 1993); *see also Gagnon v. Scarpelli*, 411 U.S. 778, 786 (1973) (stating that minimum due process requirements provide that a defendant must receive written notice of the claimed probation violation). Neither the probation violation report, nor the warrant, alleged that the Defendant absconded from supervision. The State was not permitted to seek revocation of the Defendant's probation on this basis, and the trial court was, likewise, not permitted to revoke the Defendant's probation and order service of his sentence on this basis.

Tennessee Code Annotated section 40-35-311 classifies violations into "technical" and "non-technical" violations. A technical violation "means an act that violates the terms or conditions of probation but does not constitute a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation." *Id.* § 40-35-311(g) (2025). "[T]he trial judge shall not revoke a defendant's probation and suspension of sentence for a felony offense . . . based upon one (1) instance of technical violation or violations." *Id.* § 40-35-311(d)(2). When a probationer has committed more than one instance of a technical violation, the statute provides as follows:

(e)(1) If the trial judge finds by a preponderance of the evidence that the defendant has violated the conditions of probation . . . by engaging in conduct that is a second or subsequent instance of a technical violation pursuant to subdivision (d)(2), then the trial judge may temporarily revoke the probation . . . and:

(A) Impose a term of incarceration not to exceed:

(i) Fifteen (15) days for a first revocation;

. . . .

(iv) The remainder of the sentence for a fourth or subsequent revocation; or

(B) Resentence the defendant for the remainder of the unexpired term of a sentence of probation that includes the condition of participating in a community-based alternative to incarceration . . . provided, that the violation

of probation and suspension is a technical violation and does not involve the commission of a new offense.

Id. § 40-35-311(e)(1). Thus, “when a defendant is on probation for a felony offense and commits a technical violation of probation, the trial court’s authority to order an incarcerative sanction is restricted based on the number of previous ‘revocations.’” *Rand*, 696 S.W.3d at 103.

For non-technical probation violations, a trial court has other options. After revoking a defendant’s probation on a non-technical violation, the court may return a defendant to probation with modified conditions as necessary, extend the period of probation by no more than one year upon making additional findings, order a period of confinement, or order the defendant’s sentence into execution. T.C.A. §§ 40-35-308(a), (c) (2025), -310 (2025), -311(e)(2).

The record reflects that the Defendant was serving a three-year sentence on probation for a felony drug offense. The probation violation warrant alleged that on July 9, 2025, the Defendant left the court-ordered, long-term residential treatment program at Wooten House in Smith County, that he was admitted into treatment program at Freeman Recovery Center in Dickson County, and that the Defendant did not first obtain permission to change treatment programs or his county of residence, which violated Rule 5 of the Defendant’s probation conditions. The warrant alleged that on July 16, 2025, the Defendant failed to report as instructed for an alcohol and drug assessment, which violated Rule 10 of the Defendant’s probation conditions. The probation violation report reflected that these violations were the Defendant’s first instance of a technical violation.

Ms. Cunningham’s credited testimony reflects that the Defendant began a treatment program at Wooten House in Smith County and that, without communicating with her or obtaining her permission, he left the facility to enter a treatment program at Freeman Recovery Center in another county. Upon de novo review, we conclude that the record reflects by a preponderance of the evidence that the Defendant violated a condition of his probation by failing to obtain Ms. Cunningham’s permission before changing treatment programs and his county of residence.

Ms. Cunningham’s credited testimony reflects that the Defendant failed to report for an alcohol and drug assessment on July 16, 2025. The trial court ordered the alcohol and drug assessment as a special condition of the Defendant’s probation. Upon de novo review, we conclude that the record reflects by a preponderance of the evidence that the Defendant violated a condition of his probation by failing to report for the assessment.

However, the Defendant's actions constitute a single instance of a technical violation or violations. The Defendant violated the conditions of his probation, but his conduct "does not constitute a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation." *Id.* § 40-35-311(g). The Defendant's failure to obtain Ms. Cunningham's permission before moving and changing treatment programs is a technical violation. *See id.*; *see also State v. Wayne Morris Flood*, No. M2025-01299-CCA-R3-CD, 2026 WL 1092268, at *4 (Tenn. Crim. App. Apr. 21, 2026) (A defendant's voluntarily leaving a treatment program without permission from a defendant's probation officer is a technical violation.), *no perm. app. filed*. Likewise, the Defendant's failure to report for the alcohol and drug assessment is a technical violation. *See* T.C.A. § 40-35-311(g).

Even if the probation violation warrant had alleged that the Defendant violated the conditions of his probation by failing to complete the court-ordered treatment program, revocation would not have been permitted. Ms. Cunningham's credited testimony reflects that the trial court ordered the Defendant to complete a residential treatment program and that the Defendant did not complete the program, which violated the special probation condition imposed by the trial court. However, the Defendant's failure to complete a treatment program is, likewise, a technical violation. *See id.* § 40-35-311(g); *see also State v. Noel*, 729 S.W.3d 315, 325 (Tenn. Crim. App. 2025) (A defendant's failure to complete an inpatient treatment program is a technical probation violation, and the first instance of a technical violation is not subject to revocation.).

The record reflects, as well, that this violation of probation determination is the Defendant's first, and, as a result, the trial court was not permitted to revoke the Defendant's probation based upon one instance of a technical violation or violations. *See id.* § 40-35-311(d)(2) ("[T]he trial judge *shall not revoke* a defendant's probation and suspension of sentence for a felony offense . . . based upon one (1) instance of technical violation or violations.") (emphasis added). We conclude that the trial court abused its discretion by revoking the Defendant's probation and ordering him to serve the remainder of his sentence in confinement. The Defendant's probation is reinstated immediately upon the filing of this opinion.

In consideration of the foregoing and the record as a whole, the judgment of the trial court is reversed, and the Defendant's probation is reinstated.

s/ Robert H. Montgomery, Jr.
ROBERT H. MONTGOMERY, JR., JUDGE