

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

STATE OF NEW MEXICO,

Court of Appeals of New Mexico

Filed 9/28/2026 8:29 AM

Plaintiff-Appellee,



Mark Reynolds

v.

No. A-1-CA-42903

DANIEL L. MONTOYA,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF LINCOLN COUNTY

John P. Sugg, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Charles J. Gutierrez, Senior Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Kathleen T. Baldrige, Assistant Appellate Defender

Santa Fe, NM

for Appellant

MEMORANDUM OPINION

HENDERSON, Judge.

{1} This matter was submitted to the Court on Defendant's brief in chief pursuant
to the Administrative Order for Appeals in Criminal Cases from the Second,
Eleventh, and Twelfth Judicial District Courts in *In re Pilot Project for Criminal
Appeals*, No. 2022-002, effective November 1, 2022. Following consideration of the

1 brief in chief, the Court assigned this matter to Track 2 for additional briefing. Now
2 having considered the brief in chief and answer brief, we affirm for the following
3 reasons.

4 {2} Defendant appeals the revocation of his probation, challenging the sufficiency
5 of the evidence that his violations were willful. [BIC 1, 8] Defendant contends that
6 no evidence was admitted that anyone explained to him the rules and regulations of
7 his required treatment program, and further, his departure from the program could
8 not have been willful as he contends someone may have told him he was being
9 discharged. [BIC 9, 10]

10 {3} “We review a district court’s revocation of a defendant’s probation for an
11 abuse of discretion.” *State v. Leon*, 2013-NMCA-011, ¶ 36, 292 P.3d 493. “To
12 establish an abuse of discretion, it must appear the [district] court acted unfairly or
13 arbitrarily, or committed manifest error.” *State v. Martinez*, 1989-NMCA-036, ¶ 5,
14 108 N.M. 604, 775 P.2d 1321. In reviewing the sufficiency of the evidence
15 supporting a probation violation, “we view the evidence in a light most favorable to
16 the prosecution, indulging all reasonable inferences and resolving all conflicts to
17 uphold the [district] court’s decision.” *In re Bruno R.*, 2003-NMCA-057, ¶ 9, 133
18 N.M. 566, 66 P.3d 339. A district court may revoke a defendant’s probation “if, after
19 a hearing, it is established that [they] failed to comply with a condition of . . .
20 probation.” *State v. Parsons*, 1986-NMCA-027, ¶ 19, 104 N.M. 123, 717 P.2d 99.

1 “[A] violation of the conditions of probation must be established with such
2 reasonable certainty as to satisfy the conscience of the court of the truth of the
3 violation. It does not have to be established beyond a reasonable doubt.” *State v.*
4 *Brusenhan*, 1968-NMCA-006, ¶ 9, 78 N.M.764, 438 P.2d 174, *State v. Guthrie*,
5 2011-NMSC-014, ¶ 14, 150 N.M. 84, 257 P.3d 904 (alteration and citation omitted).
6 “Once the state offers proof of a breach of a material condition of probation, the
7 defendant must come forward with evidence to excuse non[]compliance.” *Martinez*,
8 1989-NMCA-036, ¶ 8.

9 {4} Defendant does not contest that he did not complete the treatment program or
10 report to probation; he instead argues that these failures were not willful due to a
11 lack of notice. [BIC 8-11] *See Parsons*, 1986-NMCA-027, ¶ 18 (noting probation
12 revocation requires that a defendant’s failure to comply is willful); *In re Bruno R.*,
13 2003-NMCA-057, ¶ 11 (same). Notice determines “whether it was reasonable for [a
14 d]efendant to have believed that [they were] not violating the terms of [their]
15 probation.” *See State v. Dinapoli*, 2015-NMCA-066, ¶ 7, 350 P.3d 1259;
16 *Martinez*, 1989-NMCA-036, ¶ 4 (“The proof necessary [to support the revocation of
17 probation] is that which inclines a reasonable and impartial mind to the belief that a
18 defendant has violated the terms of probation.”). “It is an essential component of due
19 process that individuals be given fair warning of those acts which may lead to a loss
20 of liberty.” *State v. Doe*, 1986-NMCA-019, ¶ 9, 104 N.M. 107, 717 P.2d 83

(alteration, internal quotation marks, and citation omitted), *abrogated on other grounds by State v. Erickson K.*, 2002-NMCA-058, ¶¶ 19-20, 132 N.M. 258, 46 P.3d 1258. “As a general matter, formal conditions of probation serve the purpose of giving notice of proscribed activities. But a formal condition is not essential for purposes of notice.” *Id.* ¶ 10 (internal quotation marks and citation omitted). “[W]here the warning is not contained in a formal condition, the record must be closely scrutinized to determine whether the defendant did, in fact, receive the requisite warning.” *Id.* (internal quotation marks and citation omitted).

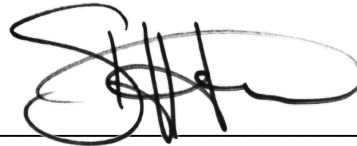
{5} Here, the district court’s order for furlough states that “Defendant must return to the Lincoln County Detention Center no later than September 14, 2024 regardless of whether he has completed the program.” [RP 119] It orders that “if Defendant is discharged or leaves [the treatment program] for any reason, he must return to the Lincoln County Detention Center within two hours of being discharged or leaving the program.” [RP 119] It also states that “[i]f Defendant fails to return to [the Lincoln County Detention Center] within the ordered time, he will be in violation of this order and may be charged with [e]scape from [j]ail, pursuant to NMSA 1978 Section 30-22-8 [(1963)].” [RP 119] The record also indicates that before entering the order for furlough, the district court explained to Defendant on the record that there would be significant consequences if he left or failed to complete the program, to which Defendant responded that he understood three separate times. [3-1-24 CD

1 8:45:53-47:23] This is sufficient to establish that Defendant was on notice, and that
2 he willfully violated the terms and conditions of his probation by not returning to the
3 Lincoln County Detention Center within two hours of leaving the program. *See Doe*,
4 1986-NMCA-019, ¶¶ 9-10; *State v. Aslin*, 2018-NMCA-043, ¶ 9, 421 P.3d
5 843 (“[O]nce the state establishes to a reasonable certainty that the defendant
6 violated probation, a reasonable inference arises that the defendant did so willfully,
7 and it is then the defendant’s burden to show that failure to comply was either not
8 willful or that he or she had a lawful excuse.”), *rev’d on other grounds*, 2020-NMSC-
9 004, 457 P.3d 249.

10 {6} Defendant also suggests that his departure could not have been willful because
11 he “may have been told that he was being discharged” and he participated in some
12 of the program. [BIC 10] Defendant states he did not introduce evidence that anyone
13 told him he would be discharged. [BIC 10] *See Martinez*, 1989-NMCA-036, ¶ 8
14 (requiring a defendant to “come forward with evidence to excuse non[]compliance”
15 once the State has established a “breach of a material condition of probation”). Even
16 if he had, the district court’s order provided Defendant with notice that he was to
17 report to the Lincoln County Detention Center if he left the treatment center “for any
18 reason” and “regardless of whether he has completed the program.” [RP 119] *See*
19 *Aslin*, 2018-NMCA-043, ¶ 9. To the extent Defendant also suggests that he did not
20 leave the treatment center willfully because of his substance abuse and mental health

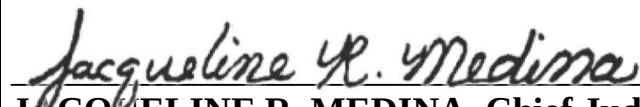
1 struggles, [BIC 10] the district court, as fact-finder, was free to reject Defendant's
2 version of events and conclude that the violation was willful. *See State v. Sutphin*,
3 1988-NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314 (noting that the fact-finder is
4 free to reject a defendant's version of events); *In re Bruno R.*, 2003-NMCA-057, ¶ 9.
5 We cannot say that the district court abused its discretion in revoking Defendant's
6 probation. *See Leon*, 2013-NMCA-011, ¶ 36. Accordingly, we affirm.

7 {7} **IT IS SO ORDERED.**



8
9 **SHAMMARA H. HENDERSON, Judge**

10 **WE CONCUR:**



11
12 **JACQUELINE R. MEDINA, Chief Judge**



13
14 **ZACHARY A. IVES, Judge**