IN THE COURT OF APPEALS OF IOWA

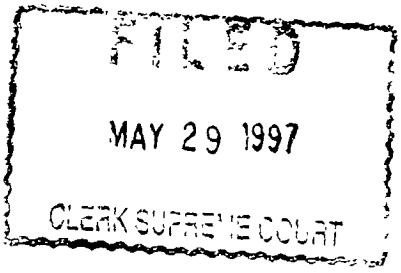
No. 7-172 / 96-1361

000423

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RYAN THOMPSON GOETTSCH,
Defendant-Appellant.



Appeal from the Iowa District Court for Linn County, Kristin L. Hibbs, Judge.

Ryan Goettsch appeals from the district court decision revoking his deferred judgment and sentencing him on his prior convictions on two counts of burglary in the third degree. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, and Denver D. Dillard, County Attorney, for appellee.

Considered by Habhab, C.J., and Sackett and Cady, JJ.

PER CURIAM.

This is an appeal by a defendant claiming the district court should not have revoked his deferred judgment and sentenced him to a term of imprisonment on his convictions on two counts of burglary in the third degree, in violation of Iowa Code sections 713.1 and 713.6A (1995). We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On September 27, 1995, Ryan Goettsch pled guilty to two counts of burglary in the third degree. He admitted he had broken into two vehicles in Cedar Rapids. Judgment in the case was deferred and Goettsch was placed on probation for a period of three years.

Goettsch violated his probation in February 1996 when he was convicted of driving while license suspended. Goettsch also violated his probation by failing to maintain employment or attend classes to complete his GED. The district court amended the conditions of Goettsch's probation to require him to reside at the Community Corrections Center for a period not to exceed one year. Goettsch entered the Gary R. Hinzman Center, a probation halfway house, on May 21, 1996. He absconded after only four days.

The State filed an application to revoke Goettsch's probation. The district court determined Goettsch had violated the terms of his probation and that probation should be revoked. Goettsch was sentenced to a term of imprisonment not to exceed

five years on each count, these sentences to run concurrently. Goettsch now appeals the revocation of his probation.

Probation revocation is a civil proceeding and not a stage of criminal proceedings. *State v. Lillibridge*, 519 N.W.2d 82, 83 (Iowa 1994). On review, there must be sufficient evidence to support the district court's revocation of probation. *State v. Allen*, 402 N.W.2d 438, 443 (Iowa 1987).

Goettsch contends the district court failed to make specific findings of fact to establish the factual basis for the revocation. A court which revokes probation must make findings which show the factual basis for the revocation. *Rheuport v. State*, 238 N.W.2d 770, 775 (Iowa 1976). We question whether Goettsch has preserved error because he did not file a motion for more specific findings of fact.

In any event, we find the district court made sufficient factual findings. In the written order, the court stated:

> Evidence was presented and the Court heard the statements and arguments of counsel. Based upon the evidence and the statements and arguments of counsel and pursuant to Iowa Code Section 908.11, the Court finds beyond a reasonable doubt that the Defendant has violated the terms and conditions of his probation as previously imposed.

In addition, at the probation revocation hearing, the court noted Goettsch had left the Hinzman Center after only four days. An oral statement of such findings by the court, made in the presence of the defendant and recorded by a court reporter, is substantially equivalent to a written statement. *Id.* Furthermore, Goettsch admitted he had absconded from the Hinzman Center and did not report to his probation officer

for almost a month. We conclude there were sufficient factual findings to support the revocation of probation.

We affirm the decision of the district court revoking Goettsch's probation and sentencing him to a term of imprisonment. Costs of this appeal are assessed to Goettsch.

AFFIRMED.