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SUMMARY
September 26, 2024

2024COA105

No. 22CA0923, *People v. Morris* — Criminal Law — Sentencing — Youthful Offender System — Revocation — Behavioral or Mental Health Disorder

Addressing an issue of first impression, a division of the court of appeals considers the scope of a district court’s discretion to dismiss a proceeding to revoke a Youthful Offender System (YOS) sentence under section 18-1.3-407(5)(b), C.R.S. 2024 — the mental health disorder subsection of the YOS statute.

The division holds that under the YOS statute and existing case law, a district court has no discretion to dismiss revocation proceedings based on a youthful offender’s allegation of an undiagnosed behavioral or mental health disorder. Accordingly, the division concludes that the court did not abuse its discretion by

revoking the offender's YOS sentence and imposing the original sentence to the custody of the Department of Corrections.

Court of Appeals No. 22CA0923
El Paso County District Court No. 19CR463
Honorable Frances R. Johnson, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Isaiah Montrell Morris,

Defendant-Appellant.

ORDER AND SENTENCE AFFIRMED

Division III
Opinion by JUDGE MOULTRIE
Dunn and Yun, JJ., concur

Announced September 26, 2024

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¶ 1 Defendant, Isaiah Montrell Morris, appeals the district court’s order revoking his sentence to the Youthful Offender System (YOS) of the Department of Corrections (DOC) and imposing his previously suspended DOC sentence. He contends that the court misunderstood its discretion under the YOS statute, section 18-1.3-407, C.R.S. 2024, because it had the discretion to not revoke his YOS sentence due to an alleged behavioral or mental health disorder. We disagree and affirm the district court’s order and sentence.

¶ 2 Under the YOS statute, when, as in this case, (1) the DOC returns an offender to the district court for failure to comply with the YOS terms and conditions; (2) the offender stipulates that he failed to comply; and (3) the revocation procedures meet the requirements of DOC regulations and the YOS statute, the offender “shall receive imposition of the original sentence” to the DOC. § 18-1.3-407(5)(c). We further conclude that any error in the district court’s findings about Morris’s mental health history is harmless because, without a diagnosis opining that Morris is “incapable of completing” a YOS sentence due to a behavioral or mental health disorder, the YOS statute mandates imposition of the

original suspended DOC sentence. § 18-1.3-407(5)(b)(I);
§ 18-1.3-407(2)(a)(II).

I. Background

¶ 3 Morris pleaded guilty to one count of aggravated robbery as an extraordinary risk crime and crime of violence for a crime he committed when he was eighteen years old. As part of the plea agreement and pursuant to the YOS statute, he was sentenced to twenty-four years in the custody of the DOC, suspended on the condition that he successfully complete a seven-year YOS sentence. *See* § 18-1.3-407(2)(a)(I).

¶ 4 Morris entered the YOS in October 2019. His intake included a mental health assessment, and he was assessed as having no mental health needs partly based on his self-report denying any mental health history. Just over three months later, after failed remediation attempts, a multidisciplinary YOS team recommended revocation of Morris's YOS sentence because he had failed to progress in the program and had been convicted of four Code of Penal Discipline (COPD) violations, including strangling another offender until the offender became unconscious. The YOS warden

overruled the team's recommendation in favor of additional remediation.

¶ 5 Remediation attempts continued, but Morris accumulated three more COPD violations, including assault for throwing a punch at a staff member. In July 2020, the multidisciplinary team once again recommended revocation. Between that time and October 2020, when the warden and DOC executive director approved the revocation recommendation, Morris reported hearing voices. Shortly thereafter, he was transferred to the county jail.

¶ 6 Morris sought an independent mental health evaluation and attempted to negotiate with prosecutors, but the prosecution ultimately moved to revoke Morris's YOS sentence due to his failure to comply with the terms and conditions of the YOS.

¶ 7 At the initial revocation hearing, Morris admitted to violating the terms of the YOS program and failing to complete it. He requested either a reduced DOC sentence or a diagnostic validation of a mental health disorder, or both. At the final revocation hearing, Morris argued that his failure to complete the program was due to an undiagnosed and unmedicated mental health disorder. Although his expert testified that Morris was capable of complying

with the YOS regulations, he nonetheless recommended that Morris be observed in a controlled environment to rule out an unspecified thought disorder or a major mental illness. Morris requested that he be sent to a special needs unit of the DOC for diagnostic validation.

¶ 8 The prosecution's expert, a clinical psychologist and a mental health supervisor for the YOS, disagreed that diagnostic validation was warranted, saying that Morris suffered from antisocial personality disorder and was capable of serving a YOS sentence. The expert suspected malingering because Morris had denied experiencing hallucinations in seven previous mental health evaluations. The prosecution asked the court to impose Morris's original twenty-four-year DOC sentence.

¶ 9 The district court found that it had no authority to order Morris's transfer for diagnostic validation. It also found that Morris's failure to comply with the YOS terms and conditions was not due to mental health issues, noting that Morris had not disclosed a mental health history until it was clear he would not be staying in the YOS. The court imposed the original DOC sentence and granted Morris credit for time served. *See* § 18-1.3-407(2)(b).

¶ 10 On appeal, Morris asserts that the district court
(1) misapprehended its discretion to not revoke his sentence because the DOC had not completed a diagnostic validation and
(2) based its sentencing decision on a clearly erroneous finding about his mental health history. We perceive no reversible error.

¶ 11 Before we reach Morris’s contentions, however, we describe the YOS’s structure and function, internal revocation procedures, and the statutory delegation of powers and duties related to revocation.

II. The YOS

A. Structure and Function

¶ 12 The purpose of the YOS is to provide an option for suitable youthful offenders to serve criminal sentences “in a facility specifically designed and programmed for the [YOS]” separate from “inmates twenty-five years of age or older sentenced to the [DOC] who have not been sentenced to the [YOS].” § 18-1.3-407(1)(c)(I). Young adult offenders who, like Morris, were between the ages of eighteen and twenty-one when they committed certain crimes and were under twenty-one when they were sentenced may be eligible

for sentencing to the YOS. *See* § 18-1.3-407.5(3), C.R.S. 2024; § 18-1.3-407(2)(a)(III)(B).

¶ 13 Although the YOS has facilities separate from the DOC’s most commonly used adult facilities, it falls under the DOC’s control. *See* § 18-1.3-407(3) (“The [YOS] shall be under the direction and control of the executive director of the [DOC].”); § 18-1.3-407(1)(d) (offenders sentenced to the YOS are “subject to all laws and [DOC] rules, regulations, and standards,” except as otherwise provided in the YOS statute). The DOC is responsible for developing and implementing the YOS system based on prescribed rehabilitative principles. *See* § 18-1.3-407(3).

B. YOS Internal Revocation Procedures

¶ 14 The YOS statute provides that if a youthful offender cannot successfully complete their YOS sentence because they (1) pose a danger to themselves or others; (2) are incapable due to a behavioral or mental health disorder;¹ (3) are incapable for any other reason; or (4) fail to comply with the YOS terms and conditions, the DOC may return the offender to the district court for revocation and

¹ The statute also addresses incapability due to an intellectual and developmental disability, which was not alleged here.

resentencing to the DOC. § 18-1.3-407(5); *see People v. Omar*, 2023 COA 13M, ¶¶ 18-20.

¶ 15 DOC regulations prescribe specific procedures before returning an offender to the district court. To begin, if an offender is noncompliant with the YOS program and remediation is unsuccessful, a multidisciplinary YOS team may conduct a “suitability hearing.” DOC Admin. Reg. 1600-01(IV)(A)(3), (IV)(C). At the hearing, the offender may be represented by staff, call and question witnesses, and present mitigating testimony. DOC Admin. Reg. 1600-01(IV)(C)(4)(b). If the YOS team recommends revocation, its decision is then reviewed by the YOS warden and the DOC executive director, who may overrule the team’s recommendation. *See* DOC Admin. Reg. 1600-01(IV)(C)(5)-(9). If the warden and executive director both approve a revocation recommendation, the decision is forwarded to a prosecuting attorney. *See id.*; § 18-1.3-407(5)(c).

C. Statutory Parameters for Revocation

¶ 16 The YOS statute outlines the powers and duties of the DOC and the district court in that system, including those relating to transfer, revocation, and resentencing.

1. Powers and Duties of the DOC

¶ 17 Subsection (5)(b)(I) of the YOS statute provides that offenders may be transferred out of YOS facilities if they are thought to have a behavioral or mental health disorder, as follows:

An offender who is thought to have a behavioral or mental health disorder . . . *by a mental health clinician*, as defined by regulation of the [DOC], *may* be transferred to another facility for a period not to exceed sixty days for diagnostic validation of said disorder or disability. At the conclusion of the sixty-day period, the . . . professionals conducting the diagnosis *shall* forward to the executive director of the [DOC] their findings, which . . . must include a statement of whether the offender has the ability to withstand the rigors of the [YOS]. *If* the diagnosis determines that the offender is incapable of completing his or her sentence to the youthful offender system due to a behavioral or mental health disorder . . . , the executive director *shall* forward such determination to the sentencing court.

(Emphases added.)

¶ 18 In the context of the YOS statute as a whole, and as elaborated *infra* Parts II.C.1.a and b, we read this language to grant the DOC exclusive power to transfer offenders for diagnostic validation.

a. Offender Transfer, Generally

¶ 19 The YOS statute grants the DOC the power and discretion to transfer offenders between facilities and back to the district court. See § 18-1.3-407(1)(c)(II), (3.4)(a), (5)(a), (5)(b)(I), (5)(b)(IV), (5)(c). Specifically, subsection (1)(c)(II) grants the DOC the power to transfer offenders sentenced to the DOC *into* the YOS at the executive director’s discretion. Subsection (3.4) allows the DOC to transfer offenders *out* of YOS facilities for redirection, while subsection (5)(a) grants the executive director authority for final review “prior to the actual transfer of an inmate, including a transfer back to the district court for revocation” of a YOS sentence. Subsection (5)(c) directs the DOC to implement a procedure for returning an offender to the district court after the executive director upholds a revocation recommendation. And subsections (5)(a) and (5)(b) permit the DOC to temporarily transfer offenders to

non-YOS facilities (1) when the offender poses a danger to self or others or (2) for diagnostic validation.²

¶ 20 These provisions align with the categorical grant of offender transfer power in section 17-1-105(1)(a), C.R.S. 2024, which provides that the executive director of the DOC “*shall have and exercise . . . [a]ll the right and power* to transfer an inmate between correctional facilities.” (Emphasis added.) See *Dunlap v. Colo. Dep’t of Corr.*, 2013 COA 63, ¶ 11 (statutes in title 17 may be related to provisions in title 18). And importantly, nowhere in the YOS statute does the legislature grant the district court authority to order an offender transfer. See *Specialty Rests. Corp. v. Nelson*, 231 P.3d 393, 397 (Colo. 2010) (“[W]e will not construe a statute in a manner that assumes the General Assembly made an omission; rather, the General Assembly’s failure to include particular language is a statement of legislative intent.”).

² This delegation of authority is consistent with section 17-23-101(1)(a), C.R.S. 2024, which grants the executive director of the DOC the authority to transfer an inmate who has a behavioral or mental health disorder and “cannot be safely confined in a correctional facility to an appropriate facility operated by the department of human services”

¶ 21 The foregoing authority leaves little doubt that offender transfer between the YOS and any DOC facility is a power held exclusively by the DOC. *See Dunlap*, ¶ 13 (recognizing that the DOC’s inmate management duties “are undeniably broad”).

b. Diagnostic Validation

¶ 22 The parties do not provide, and our review of the DOC administrative regulations does not reveal, a clear definition of the “mental health clinician” on whose opinion a transfer for diagnostic validation relies. However, the DOC Mental Health Scope of Service Regulation says that “[a]ll mental health services provided by mental health clinicians, employees, and contract workers will be clinically directed by, or coordinated through, the mental health program administrator.” DOC Admin. Reg. 700-03(IV)(A)(1). This language indicates that even if a clinician need not be a DOC provider, they must work under the direction of the DOC. The opinion of an offender’s independent expert is insufficient to support a transfer for diagnostic validation under the statute. And nowhere in the YOS statute is the district court granted authority to order a diagnostic validation. *See Specialty Rests. Corp.*, 231 P.3d at 397.

¶ 23 The YOS statute grants the DOC the power and discretion to send an offender for diagnostic validation. Because the statute granted these powers and duties to the DOC, we agree with the district court that subsection (5)(b)(I) did not grant it the authority to order a “diagnostic validation” of Morris.

2. Powers and Duties of the District Court

¶ 24 Turning next to the powers and duties of the district court, subsection (5)(b)(I) provides that *if* a diagnostic validation determines that an offender is incapable of completing a YOS sentence,

[b]ased on [that] determination, the sentencing court *shall* review the offender’s sentence to the [YOS] and *may*:

(A) Impose the offender’s original sentence to the [DOC]; *or*

(B) Reconsider and reduce the offender’s sentence to the [DOC] in consideration of the offender’s behavioral or mental health disorder

(Emphases added.) The parties rightly agree that the plain language in this portion of subsection (5)(b)(I) requires the district court to impose a DOC sentence — either the original sentence or a reduced one — whenever an offender is returned to the court after a

disorder or disability diagnosis determining that the offender is incapable of completing a YOS sentence.

III. Discretion to Not Revoke

¶ 25 Morris contends that the district court abused its discretion by finding that it could not return him to the YOS. *See People v. Honstein*, 2024 CO 34, ¶ 10 (a trial court abuses its discretion if it misapplies the law or if its ruling is manifestly arbitrary, unreasonable, or unfair). He points out that the court could have simply not revoked his sentence, “thereby facilitating a diagnostic validation of his behavioral and mental health conditions,” or it could have dismissed the revocation proceedings on the ground that the DOC had neglected to complete a diagnostic validation. We conclude that the court properly exercised its discretion — in other words, it neither misapplied the law nor unreasonably revoked Morris’s YOS sentence.

A. Discretion Under the YOS Statute

¶ 26 The plain language of subsection (5) of the YOS statute suggests that the district court has limited sentencing discretion once the DOC returns an offender to court. Following a revocation recommendation, subsection (5)(a) requires the DOC to return the

offender to the district court, and once returned, subsections (5)(b) and (5)(c) require the district court to impose either the offender's original DOC sentence or a reduced DOC sentence (as determined by the court after consideration of the offender's diagnosed behavioral disorder or mental health disorder). See § 18-1.3-407(2)(a)(II); see also *People v. Johnson*, 2022 COA 68, ¶¶ 26-28.

B. Discretion Recognized by Case Law

¶ 27 Divisions of this court have held that a district court may deny a YOS sentence revocation motion (1) issued without just cause, see *People v. McCoy*, 939 P.2d 537, 540 (Colo. App. 1997); (2) when the prosecutor fails to prove that the offender cannot successfully complete the YOS sentence, *id.*; or (3) when the DOC fails to comply with the provisions of the YOS statute, *People v. Martinez*, 2015 COA 33, ¶¶ 29-30. None of these circumstances are present here.

C. Application

¶ 28 Morris was returned to the district court under subsection (5)(c) because he failed to comply with the YOS terms and conditions. He stipulated that he violated the YOS terms and conditions and couldn't successfully complete his sentence, which

relieved the prosecution of any burden to prove those facts. And he didn't challenge the DOC's revocation procedures or assert a violation of the YOS statute. Now he argues that the court misunderstood its discretion to not revoke or to dismiss the proceedings based on his claim of an undiagnosed behavioral or mental health disorder. We conclude that the court properly exercised its limited discretion.

¶ 29 The YOS statute gives the DOC broad power to manage the YOS, and it does not grant the district court discretion to deny a revocation recommendation. Any discretion to deny a revocation arises from our case law. We acknowledge that the court's discretion is not necessarily limited to the reasons stated *supra* Part III.B — for instance, a revocation recommendation could be denied based on the DOC's violation of its own policies — but here, there was no evidence of a DOC policy violation or any other circumstance warranting an exercise of discretion. *Cf. McCoy*, 939 P.2d at 540 (“[R]evocation of a YOS sentence is markedly different from revocation of a community corrections placement where rejection may occur for any reason or for no reason at all.”).

¶ 30 Subsection (5)(c) requires the court to impose the original DOC sentence for revocation based on an offender’s failure to comply with the terms and conditions of the YOS. And although the YOS statute does not address revocation based on an *alleged* behavioral or mental health disorder, subsection (5)(b)(I) requires the district court to impose the original or a reduced DOC sentence for revocation based on a *diagnosed* disorder that renders an offender incapable of completing a YOS sentence.

§ 18-1.3-407(5)(b)(I)(A)-(B). It would be inconsistent with these provisions for the court to perceive that it had discretion to deny revocation for a noncompliant offender — like Morris — simply because he alleged an undiagnosed disorder. *See McCulley v. People*, 2020 CO 40, ¶ 10.

¶ 31 We are unpersuaded by Morris’s claim that the district court could have dismissed the revocation proceeding because the DOC failed to conduct a diagnostic validation. Subsection (5)(b)(I) merely permits a diagnostic validation; it does not suggest any circumstance in which the procedure is mandatory. Thus, the DOC could not violate the YOS statute by failing to conduct a diagnostic validation. *Cf. Martinez*, ¶¶ 29-30 (holding that the district court

has discretion to dismiss a revocation proceeding for violations of the YOS statute). Morris does not point to any part of the YOS statute or any case law supporting his proposed exercise of discretion. Therefore, we cannot conclude that the court misapplied the law or otherwise abused its discretion by failing to entertain the possibility of nonrevocation based on Morris's allegation of an undiagnosed behavioral or mental health disorder.

IV. Sentencing

¶ 32 Finally, Morris contends that the district court based its sentencing decision on a clearly erroneous finding that he had not disclosed his mental health history until after the DOC recommended revocation. Even assuming that the court erred, any error is harmless because whether or not Morris was malingering is immaterial to his sentence.

¶ 33 Once a YOS sentence is revoked, the district court has no sentencing discretion unless the revocation follows a diagnostic validation determining that the offender is incapable of completing a YOS sentence. *See* § 18-1.3-407(2)(a)(II), (5)(b)(I). Here, not only was there no diagnostic validation, but Morris's own expert witness testified that Morris was capable of completing a YOS sentence.

¶ 34 When Morris's YOS sentence was revoked because he undisputedly violated the terms and conditions of the YOS program, the court was required to impose the original DOC sentence. See § 18-1.3-407(5)(c); *People v. Miller*, 25 P.3d 1230, 1232 (Colo. 2001).

V. Disposition

¶ 35 The order and sentence are affirmed.

JUDGE DUNN and JUDGE YUN concur.