

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Erick Ascano v. State of Florida

No. 3D24-2205 · No. No. 3D24-2205 · Decided December 3, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed the revocation of Erick Ascano’s probation. The court held that the trial court did not abuse its discretion in finding Ascano’s probation violations willful, despite his claimed schizophrenia, manic-depressive episodes, and interruption in medication, because he presented no expert or corroborating evidence showing that his condition prevented compliance.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	BOKOR, J.; FERNANDEZ, J.; LINDSEY, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	December 3, 2025
DOCKET	No. 3D24-2205
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Circuit Court for Miami-Dade County revoking Ascano's probation.
STANDARD OF REVIEW	Abuse of discretion; the trial court has broad discretion to determine whether a willful and substantial violation of probation was proven by the greater weight of the evidence.
PRECEDENTIAL VALUE	Published
PARTIES	Erick Ascano v. State of Florida

TOPICS

- probation
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

- Criminal law
- Probation revocation
- Appellate review

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by finding that Ascano's probation violations were willful despite his claim that mental illness and a lapse in medication prevented him from understanding or controlling his conduct.

HOLDINGS

1. The trial court did not abuse its discretion in finding that Ascano willfully violated probation. A conclusory claim of mental illness and being off medication, without evidence showing that the condition prevented compliance with probation or acquisition of replacement medication, was insufficient to establish that the violations were not willful.

KEY QUOTATIONS

“Although “[i]llness, including mental illness, can render a technical violation of probation not substantial or willful because a mental or physical illness can be debilitating to the point that a probationer cannot comply with the terms of probation,”” (at 2)

“The trial court has broad discretion to determine whether there has been a willful and substantial violation of a term of probation and whether such a violation has been demonstrated by the greater weight of the evidence.” (at 3)

FACTUAL BACKGROUND

Ascano left Leon County without notifying his probation officer and committed new law violations in Miami-Dade County, violating substantial conditions of his probation. He asserted that he was schizophrenic, experienced manic-depressive episodes, and had been without medication because his girlfriend discarded it the week before the violations. He presented no expert testimony or corroborating evidence that his condition prevented him from understanding or controlling his actions, or from obtaining replacement medication, although he acknowledged understanding the terms of probation. The trial court found his testimony inconsistent, determined the violations were willful, and revoked probation.

PROCEDURAL HISTORY

The Circuit Court for Miami-Dade County found that Ascano willfully violated substantial conditions of probation by leaving Leon County without notifying his probation officer and committing new law violations in Miami-Dade County. The court revoked his probation. Ascano appealed, arguing that his schizophrenia, manic-depressive episodes, and lack of medication rendered the violations nonwillful. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Copeland v. State, 864 So. 2d 1197, 1199 (Fla. 1st DCA 2004)
- State v. Carter, 835 So. 2d 259, 262 (Fla. 2002)

- Palma v. State, 830 So. 2d 201, 203 (Fla. 5th DCA 2002)
- Chandler v. State, 41 So. 3d 1107, 1109 (Fla. 3d DCA 2010)

OPINION

Erick Ascano v. State of Florida

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed December 3, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-2205 Lower Tribunal Nos. F07-4736, F07-19137, F07-8531, F07-6307 _____ Erick Ascano, Appellant, vs. State of Florida, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Ramiro C. Areces, Judge. Carlos J. Martinez, Public Defender, and Susan S. Lerner, Assistant Public Defender, for appellant. James Uthmeier, Attorney General, and Kayla Heather McNab, and Daniel Colmenares, Assistant Attorneys General, for appellee. Before FERNANDEZ, LINDSEY and BOKOR, JJ. BOKOR, J. Erick Ascano appeals the revocation of his probation. His sole argument is that the trial court abused its discretion in finding that his violations of the terms of his probation were willful. Finding no abuse of discretion, we affirm. Ascano does not deny that he improperly left Leon County without notifying his probation officer and committed new law violations in Miami- Dade County, in violation of substantial conditions of his probation. On the other hand, the State does not dispute that Ascano is schizophrenic and has manic-depressive episodes, which he controls with medication. Ascano also testified that his girlfriend had thrown away his medications the week before the violations. Ascano claims that he had been off his medications since that time, including at the time of his violations. Because of this, Ascano argues, he could not understand or control his own actions and thus the violations were not willful. He presented no expert testimony or other corroborating evidence in his defense at the probation revocation hearing, and he also acknowledged that he understood the terms of his probation. The trial court, citing both inconsistencies in Ascano’s testimony and a lack of explanation for why he could not simply acquire more medication, found that the violations were willful and revoked his probation. 2 Although “[i]llness, including mental illness, can render a technical violation of probation not substantial or willful because a mental or physical illness can be debilitating to the point that a probationer cannot comply with the terms of probation,” Copeland v. State, 864 So. 2d 1197, 1199 (Fla. 1st DCA 2004) (internal quotation omitted), here, Ascano offers only a conclusory allegation that his mental illness and departure from his medical regimen rose to that “debilitating” level. Importantly, Ascano presented no evidence as to why his condition rendered him unable to comply with his probation or acquire more medication. As the Florida Supreme Court explained: “The trial court has broad discretion to determine whether there has been a willful and substantial violation of a term of probation and whether such a violation has been demonstrated by the greater weight of the evidence.” State v. Carter, 835 So. 2d 259, 262 (Fla. 2002). In examining the record and noting the lack of evidence to support Ascano’s position, we

hold that the court did not abuse its discretion in finding the violations willful. See *Palma v. State*, 830 So. 2d 201, 203 (Fla. 5th DCA 2002) (affirming probation revocation where defendant had bipolar disorder and history of violating probation but knowingly discontinued medication before violations and did not present expert testimony indicating that defendant's condition rendered her incapable of understanding her actions or complying with terms of 3 probation); *Chandler v. State*, 41 So. 3d 1107, 1109 (Fla. 3d DCA 2010) ("Because the defense failed to offer any expert testimony that Ms. Chandler's mental condition was such that her violation was not willful and substantial, the trial court did not abuse its discretion in concluding Ms. Chandler willfully refused to make the restitution payments, and revoking her probation."). Affirmed. 4