

The summaries of the Colorado Court of Appeals published opinions constitute no part of the opinion of the division but have been prepared by the division for the convenience of the reader. The summaries may not be cited or relied upon as they are not the official language of the division. Any discrepancy between the language in the summary and in the opinion should be resolved in favor of the language in the opinion.

SUMMARY  
February 9, 2023

**2023COA13**

**No. 20CA1607, *People v. Omar* — Criminal Law — Sentencing — Youthful Offender System — Revocation**

A division of the court of appeals addresses and rejects the defendant's challenges to the district court's order revoking his sentence to the Youthful Offender System (YOS) and imposing a previously suspended fifteen-year sentence to the Department of Corrections (DOC).

In doing so, the division addresses an issue of first impression: whether the failure to meet the deadlines set forth in section 18-1.3-407(5), C.R.S. 2022, divests the district court of jurisdiction to revoke an offender's YOS sentence. The division concludes that, because section 18-1.3-407(5) does not explicitly provide for that result, even if the DOC, the People, and the district court itself miss

the statute's deadlines, the court retains jurisdiction to rule on a petition to revoke the offender's YOS sentence.

The division also concludes, consistent with *People v. Martinez*, 2015 COA 33, ¶¶ 28-30, that the district court retained discretion to remedy the missed deadlines. Under the specific circumstances of this case, however, the district court did not abuse that discretion by refusing to order a remedy.

The division therefore affirms the district court's order.

---

Court of Appeals No. 20CA1607  
Arapahoe County District Court No. 18CR1425  
Honorable Ryan J. Stuart, Judge

---

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Yusuf Mawiye Omar,

Defendant-Appellant.

---

ORDER AFFIRMED

Division III  
Opinion by JUDGE YUN  
Pawar and Davidson\*, JJ., concur

Announced February 9, 2023

---

Philip J. Weiser, Attorney General, Marixa Frias, Assistant Attorney General,  
Denver, Colorado, for Plaintiff-Appellee

Megan A. Ring, Colorado State Public Defender, Katherine C. Steefel, Deputy  
State Public Defender, Denver, Colorado, for Defendant-Appellant

\*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art.  
VI, § 5(3), and § 24-51-1105, C.R.S. 2022.

¶ 1 Yusuf Mawiye Omar appeals the district court’s order revoking his five-year sentence to the Youthful Offender System (YOS) and imposing a previously suspended fifteen-year sentence to the Department of Corrections (DOC).

¶ 2 The YOS statute, section 18-1.3-407(5), C.R.S. 2022, imposes certain procedures and deadlines for revoking a YOS sentence. Addressing a matter of first impression, we conclude that the deadlines set forth in section 18-1.3-407(5) are not jurisdictional. Instead, the district court retains jurisdiction over the sentencing proceedings if those deadlines pass, and it has the discretion to remedy the missed deadlines. Under the specific circumstances of this case, however, the district court did not abuse that discretion by refusing to order a remedy. We therefore affirm the district court’s order.

### I. Background

¶ 3 In March 2019, Omar pleaded guilty in Arapahoe County District Court to one count of aggravated robbery, a class 3 felony, for a crime he had committed in the fall of 2017, when he was eighteen years old. In accordance with his plea agreement, the district court sentenced him to five years in the YOS, with a

fifteen-year DOC sentence “suspended upon successful completion of the YOS sentence.”

¶ 4 At the YOS, Omar signed a contract agreeing “to actively participate and to meet the specific terms and conditions” of the YOS. The contract also stated Omar’s explicit understanding that his YOS sentence could be revoked for (1) failure to actively participate; (2) failure to meet the terms and conditions of his sentence; and (3) serious misconduct, including sexual misconduct and assaulting, menacing, or threatening employees, contract workers, volunteers, or other offenders.

¶ 5 During his first few months at the YOS, Omar was written up for making verbal threats against staff, assaulting another offender, sexual misconduct, and other infractions. As a result, on June 13, 2019, a team of staff at the YOS facility held a “suitability hearing” to determine whether to recommend revoking Omar’s YOS sentence. At the end of the hearing, the team found that his actions had violated the terms of his YOS contract and therefore recommended revocation.

¶ 6 The YOS then sent a letter notifying the Arapahoe County District Attorney that Omar had “repeatedly refused to comply with

the terms or conditions” of the YOS, thereby “satisfying the requirement for revocation” under section 18-1.3-407(5)(c). In the letter, the YOS asked the district attorney to seek revocation of Omar’s YOS sentence and the imposition of his suspended adult sentence. Though the letter is dated July 30, 2019, the deputy executive director of the DOC did not sign the letter until August 12, 2019.

¶ 7 A month and a half later — on September 16, 2019 — the People petitioned the district court to revoke Omar’s YOS sentence under section 18-1.3-407(5)(c). The court set the matter for a hearing on December 12, 2019, and issued a writ ordering Omar to appear for the hearing and for a status conference on December 2.

¶ 8 Omar filed two motions to dismiss the revocation petition. In his first motion, Omar asked the court to dismiss the petition as a sanction for the People’s failure to follow section 18-1.3-407(5)(c)’s requirement that an offender “shall be transferred, within thirty-five days after the executive director upholds the department’s decision [to revoke his YOS sentence], to a county jail.” He said that he “continued to be held in the YOS facility in Pueblo until November 25, 2019, well in excess” of the thirty-five days by which

he should have been transferred. In his second motion, Omar argued that the district court lacked jurisdiction to revoke his YOS sentence because (1) section 18-1.3-407(5)(c)'s 126-day deadline for the court to review his YOS sentence ended December 3, 2019 (counting from the day that the letter to the district attorney is dated, July 30, 2019); and (2) the executive director of the DOC had not approved the decision to seek revocation.

¶ 9 The district court addressed those motions at the December 12 hearing, with Omar present. It found that section 18-1.3-407(5)(c)'s 126-day timeline began sometime after August 12, 2019 — the date the deputy executive director signed the letter to the district attorney — and, therefore, that four days remained on the clock. In addition, the court found, “even if I’m incorrect about that time frame, if we are outside of the 126 days, it’s not a jurisdictional defect.” Ultimately, however, the court dismissed the petition for revocation because the deputy executive director of the DOC — not the executive director himself — had approved the recommendation to revoke Omar’s YOS sentence. It ordered Omar returned to the YOS facility but allowed the People to re-file the petition based on the same allegations.

¶ 10 Thereafter, on February 13, 2020, the People again petitioned for revocation. The People asked the district court to set a hearing within 126 days of February 4, 2020, the day they asserted that the executive director of the DOC had approved the request to revoke Omar’s YOS sentence.<sup>1</sup> The People also asked the court to order Omar transferred to the county jail by March 10. The court set hearings for March 4 and March 9, but Omar was not transferred, so the court vacated those hearings.

¶ 11 The court set another hearing for April 3, 2020. On that day, however, the court continued the matter until June. It explained that, “[d]ue to the unprecedented public health crisis caused by the spread of COVID-19,” the Chief Justice of the Colorado Supreme Court had temporarily suspended “certain court operations” and the district’s chief judge had “cancelled all court appearances, with an exception for public safety matters.”

¶ 12 Omar again moved to dismiss the revocation petition on two separate grounds. First, he argued that he was entitled to dismissal of the petition as a sanction for the failure to transfer him

---

<sup>1</sup> The People did not attach a letter from the DOC.

to county jail within thirty-five days of the executive director’s February 4, 2020, decision to pursue revocation. Second, he argued that the district court lacked jurisdiction over the petition because more than 126 days had passed since the district attorney was notified that Omar had failed to comply with the terms of his YOS sentence — whether counting from the first letter, in August 2019, or the second letter, in January or February 2020.<sup>2</sup>

¶ 13 After further pandemic-related delays, the district court finally held Omar’s resentencing, with him present, on August 7, 2020. The court began by acknowledging that, despite efforts by the court and the People, “Omar was not brought to court within the 126 days. He also wasn’t transported to the county jail within the 35 days that the statute requires.” But the court concluded that neither deadline was jurisdictional; rather, “depending on the circumstances,” the court had discretion to “determine that . . . revocation is not appropriate” and to “issue sanctions.” The court then said,

---

<sup>2</sup> While Omar’s motion says the second letter was sent January 9, 2020, the People claim the executive director approved it on February 4. The letter is not in the record on appeal.

Here we're dealing with a situation that the courts haven't dealt with in over a hundred years. And that is a global pandemic, in which it was — the courts were shut down almost entirely, aside from some — a few matters that were required to be held. The Court was unable to hold any hearings for a period of time during which this 126 days was running, where the Defendant was in a location other than here in the Arapahoe County Jail. We were unable to hold — we hadn't set up any mechanism to hold WebEx hearings, or remote hearings, YOS was not transporting juveniles, DOC was not transporting incarcerated individuals, jails were not [mov]ing individuals from jail to jail, and it was impossible for the Court to hold the hearing within 126 days.

. . . .

I . . . can't find that the failure to follow those two timeframes in this particular set of circumstances rises to the level of a violation that requires the Court to issue sanctions against the People.

The District Attorney did everything in their power to try and bring the Defendant to the Arapahoe County Jail; requested writs, writs issued. Those writs weren't followed by YOS.

The court therefore denied Omar's motions to dismiss the petition.

¶ 14 Turning to the merits, Omar did not dispute the factual allegations underlying the petition to revoke his YOS sentence. But defense counsel argued that, because the allegations were so old, the court had “nothing fresh, nothing that bears on who Mr. Omar

is now, and how he has acted for the last year” and, therefore, that it could not determine that Omar was *not* suitable to remain in the YOS. Defense counsel suggested that “an appropriate lesser sanction [for the violation of statutory deadlines] would be . . . for the Court to find that [it’s] no longer bound by that 15-[year suspended sentence] and to order a new PSI, and conduct a new sentencing.” The court declined, noting that it had imposed a suspended fifteen-year DOC sentence on the condition that Omar successfully complete his YOS sentence, which Omar had not done. The court therefore imposed the previously suspended fifteen-year DOC sentence, backdated to the date of his guilty plea, March 1, 2019, minus the 295 days of presentence confinement credit written into his plea agreement.

¶ 15 Omar now appeals.

## II. Analysis

¶ 16 Omar makes two arguments. First, he contends that the district court lacked “jurisdiction or authority” to revoke his YOS sentence. Second, he contends that the court reversibly erred by not providing a remedy for violations of section 18-1.3-407(5)(a) and

(c). After describing how the YOS statute works, we address each of his arguments in turn.

A. The YOS Statute

¶ 17 The legislature created the YOS as a “sentencing option for certain youthful offenders” convicted of felonies as adults to serve their sentences outside the DOC in “a controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming.” § 18-1.3-407(1)(a); *see also People v. Johnson*, 2022 COA 68, ¶ 15. Thus, offenders sentenced to the YOS are “housed separate from and not brought into daily physical contact with” DOC inmates. § 18-1.3-407(1)(c)(I).

¶ 18 Under the YOS statute, a youthful offender is first sentenced to the DOC. *People v. Martinez*, 2015 COA 33, ¶ 17 (citing § 18-1.3-401, C.R.S. 2022). The district court then suspends the offender’s DOC sentence, conditioned on “successful completion” of his YOS sentence. *Id.* (quoting § 18-1.3-407(2)(a)(II)). But if a youthful offender is not successful, section 18-1.3-407(5) provides specific procedures for transferring the offender out of the YOS. *See Johnson*, ¶ 16.

¶ 19 Under section 18-1.3-407(5)(a), if the offender “poses a danger to himself . . . or others,” the offender is transferred to another facility for “a period not to exceed sixty days,” after which the offender must be returned either to the YOS to complete his sentence or to the district court for revocation of his sentence. “In no case shall an offender initially sentenced to the youthful offender system be held in isolation or segregation or in an adult facility for longer than sixty consecutive days without action by the sentencing court.” § 18-1.3-407(5)(a).

¶ 20 Section 18-1.3-407(5)(c), in turn, prescribes a process by which three categories of offenders “shall receive imposition of” their original DOC sentence: (1) those returned to the district court under section 18-1.3-407(5)(a); (2) those who “cannot successfully complete” their YOS sentence; and (3) those who “fail[] to comply with the terms or conditions of the youthful offender system.”<sup>3</sup> See *Johnson*, ¶ 22. After the DOC decides that an offender cannot

---

<sup>3</sup> Section 18-1.3-407(5)(b), C.R.S. 2022, creates a procedure for transferring an “offender who is thought to have a behavioral or mental health disorder or an intellectual and developmental disability” to another facility for “diagnostic validation.” That provision does not apply in Omar’s case.

successfully complete his YOS sentence or has failed to comply with the YOS's terms and conditions, the offender "shall be transferred, within thirty-five days after the executive director upholds the department's decision, to a county jail for holding prior to resentencing." § 18-1.3-407(5)(c). And after the DOC notifies "the district attorney of record" that the offender is not able to complete his YOS sentence or has failed to comply with the YOS's terms or conditions, the district court "shall review the offender's sentence" within 126 days. § 18-1.3-407(5)(c).

#### B. The District Court's Jurisdiction

¶ 21 Omar argues that violations of section 18-1.3-407(5) by the DOC, the People, and the district court divested the court of "jurisdiction or authority" to revoke Omar's YOS sentence and impose a DOC sentence. We disagree.

##### 1. Standard of Review and Governing Law

¶ 22 We review de novo whether the district court had jurisdiction or authority to revoke Omar's YOS sentence. *People v. Efferson*, 122 P.3d 1038, 1040 (Colo. App. 2005).

¶ 23 "A court's 'jurisdiction' concerns its 'power to entertain and to render a judgment on a particular claim' . . . ." *People v. Sprinkle*,

2021 CO 60, ¶ 14 (quoting *People v. C.O.*, 2017 CO 105, ¶ 21).

“Jurisdiction consists of two parts: ‘jurisdiction over the subject matter of the issue to be decided (subject matter jurisdiction), and jurisdiction over the parties (personal jurisdiction).” *Id.* (quoting *C.O.*, ¶ 22). Only subject matter jurisdiction is at issue here.

¶ 24 “[S]ubject matter jurisdiction’ concerns the court’s authority to deal with the *class* of cases in which it renders judgment, not its authority to enter a particular judgment within that class.” *Id.* at ¶ 15 (quoting *C.O.*, ¶ 24). The parties cannot confer jurisdiction on the court, so the positions they take are not determinative. *People in Interest of G.C.M.M.*, 2020 COA 152, ¶ 12.

¶ 25 The Colorado Constitution provides that district courts “possess original, state-wide jurisdiction in all criminal cases . . . subject to legislative restraints and enactments.” *People v. Loveall*, 231 P.3d 408, 412-13 (Colo. 2010). Thus, the legislature has “the power to limit courts’ subject matter jurisdiction,” but “such limitations must be explicit.” *Wood v. People*, 255 P.3d 1136, 1140 (Colo. 2011); *see also Loveall*, 231 P.3d at 412-13.

## 2. Discussion

¶ 26 Omar contends that because the DOC, the People, and the district court acted contrary to section 18-1.3-407(5) — by missing both the 60-day deadline in section 18-1.3-407(5)(a) and the 126-day deadline in section 18-1.3-407(5)(c) — the court lacked “jurisdiction or authority” to revoke his YOS sentence. We address each deadline in turn.

### a. Sixty-Day Deadline in Section 18-1.3-407(5)(a)

¶ 27 As pertinent here, section 18-1.3-407(5)(a) provides:

A transfer pursuant to this paragraph (a) shall be limited to a period not to exceed sixty days, at which time the offender shall be returned to the youthful offender facility to complete his or her sentence or returned to the district court for revocation of the sentence to the youthful offender system. In no case shall an offender initially sentenced to the youthful offender system be held in isolation or segregation or in an adult facility for longer than sixty consecutive days without action by the sentencing court.

¶ 28 Omar argues that this provision required that he be resentenced within sixty days of the determination at the June 13, 2019, suitability hearing that his YOS sentence should be revoked. He notes that the DOC’s executive director did not uphold the

revocation decision until February 4, 2020 — “236 days after the suitability hearing and 176 days after the statutory deadline.” The district court, in turn, did not resentence Omar until August 7, 2020 — “421 days after the suitability hearing and 361 days after the statutory deadline.”<sup>4</sup>

¶ 29 The plain language of section 18-1.3-407(5)(a), however, does not require the DOC, the People, or the district court to act within sixty days of a youthful offender’s suitability hearing. *See People v. Jones*, 2020 CO 45, ¶ 54 (“If the language [of a statute] is clear, we apply it as written.”). Rather, section 18-1.3-407(5)(a) sets a time limit on how long the offender may be held “in isolation or segregation or in an adult facility . . . without action by the sentencing court” when he “poses a danger to himself . . . or

---

<sup>4</sup> The People note that, after the district court dismissed their initial revocation motion in December 2019 based on a procedural defect, the DOC’s executive director signed a second recommendation (based on the same allegations) in early 2020. Therefore, they argue, “the operative timeframe at issue here” began at that time and ended in June 2020. Regardless of which side’s timeframe applies, however, it is undisputed that the district court did not resentence Omar until well over sixty days after his suitability hearing.

others.” It says nothing about how soon after a suitability hearing a transfer must be initiated.

¶ 30 Moreover, even assuming that the DOC and the district court missed the sixty-day deadline in section 18-1.3-407(5)(a), we are not persuaded that the district court thereby lost jurisdiction or authority to revoke Omar’s YOS sentence. Section 18-1.3-407(5)(a) does not include an explicit limit on the district court’s jurisdiction; rather, the sixty-day deadline appears to be procedural. *See People v. Martinez*, 2015 COA 33, ¶ 28 (“[O]nce a court’s subject matter jurisdiction is properly invoked, a party’s failure to comply with a procedural requirement may justify the court’s dismissal of the action within its discretion, but such failure does not divest the court of subject matter jurisdiction.” (quoting *SMLL, L.L.C. v. Peak Nat’l Bank*, 111 P.3d 563, 566 (Colo. App. 2005))).

b. 126-Day Deadline in Section 18-1.3-407(5)(c)

¶ 31 As pertinent here, section 18-1.3-407(5)(c) provides:

[A]n offender who cannot successfully complete the sentence to the youthful offender system for reasons other than a behavioral or mental health disorder or an intellectual and developmental disability, or [who] fails to comply with the terms or conditions of the youthful offender system, shall be transferred,

within thirty-five days after the executive director upholds the department's decision, to a county jail for holding prior to resentencing. . . . The district court shall review the offender's sentence within one hundred twenty-six days after notification to the district attorney of record by the department of corrections . . . .

¶ 32 Omar contends that the district court lost jurisdiction to revoke his YOS sentence because it did not review his sentence until August 7, 2020 — which, the district court found, and the People do not dispute, was more than 126 days after the district attorney was notified that Omar failed to comply with the YOS's terms and conditions.<sup>5</sup>

¶ 33 But statutory deadlines for the court to act “are generally categorized as directory, not jurisdictional, unless” (1) “time is of the essence,” (2) “the statute contains negative language denying exercise of authority beyond the time period prescribed,” or (3) “disregarding the relevant provision would injure public or

---

<sup>5</sup> The parties dispute whether section 18-1.3-407(5)(c)'s 126-day clock began running when the district attorney received the DOC's first letter, in August 2019, or second letter, in early 2020. We need not decide whether the clock restarted with the second letter because, even if it did, the August 7, 2020, resentencing hearing happened more than 126 days later.

private rights.” *People v. Heimann*, 186 P.3d 77, 79 (Colo. App. 2007) (citing *Shaball v. State Comp. Ins. Auth.*, 799 P.2d 399, 402 (Colo. App. 1990)); *see also Aviado v. Indus. Claim Appeals Off.*, 228 P.3d 177, 182 (Colo. App. 2009) (observing that while the use of “shall” in a statute generally indicates that a provision is mandatory, statutory time limitations imposed on public bodies are generally construed as directory rather than mandatory). None of those criteria exist here.

¶ 34 First, although Omar is correct that “[t]he expeditious timeframe [in section 18-1.3-407(5)(c)] appears aimed at promptly adjudicating a youthful offender’s case and limiting contact between youthful offenders who have been deemed appropriate for the YOS and adult offenders,” the need for urgency is weakened when a youthful offender is facing revocation and imposition of his original DOC sentence. It is undisputed that Omar failed to comply with the YOS’s terms and conditions — meaning that he must ultimately be returned to the district court for resentencing. *See People v. Miller*, 25 P.3d 1230, 1231 (Colo. 2001) (“[A]n offender who cannot successfully complete his YOS sentence must be returned to the district court.”).

¶ 35 Second, the statute contains no negative language indicating that the court may extend the 126-day deadline only if certain circumstances exist. This contrasts with other statutory schemes in which the legislature has explicitly provided for extensions of time beyond the statutory deadline. *See, e.g.*, § 18-1.3-603(1)(b), (2), C.R.S. 2022 (allowing extensions for “good cause” or “extenuating circumstances”).

¶ 36 And third, the delay did not injure any public or private right. Omar received credit against his DOC sentence for the time he spent in the YOS and the county jail while the revocation petition was pending. And he does not dispute the factual allegations underlying the petition. *See Heimann*, 186 P.3d at 79 (“Reversal is not warranted where . . . there is no showing that the timing affected the fairness of the proceeding or cast doubt on the reliability of its outcome.”).

¶ 37 Accordingly, the district court correctly concluded that the failure to meet section 18-1.3-407(5)(a)’s and (c)’s deadlines did not divest it of jurisdiction over the petition to revoke Omar’s YOS sentence.

## C. Remedy

¶ 38 Next, Omar argues that the district court reversibly erred by refusing to impose any remedy for the violations of section 18-1.3-407(5)'s deadlines by the DOC, the People, and the court itself. We are not persuaded.

### 1. Standard of Review

¶ 39 We review the district court's decision not to remedy a violation of section 18-1.3-407(5) for an abuse of discretion.<sup>6</sup> See *Martinez*, ¶¶ 28-30. "A court abuses its discretion when its decision

---

<sup>6</sup> The parties agree that, because Omar failed to preserve his argument about section 18-1.3-407(5)(a)'s sixty-day deadline, plain error review applies. But Omar's challenge to his sentence may be cognizable under Crim. P. 35(a) as a claim that the court imposed his sentence in an illegal manner. See Crim. P. 35(a); *People v. Bowerman*, 258 P.3d 314, 316 (Colo. App. 2010) (noting that a sentence is imposed in an illegal manner if the court ignores essential procedural rights or statutory considerations when imposing the sentence). In *Fransua v. People*, 2019 CO 96, ¶ 13, our supreme court stated that a claim that the defendant's sentence was imposed "in an illegal manner" did not need to be preserved because "[i]t makes no sense to require preservation of a claim on direct appeal when an identical claim could be raised without preservation [under Crim. P. 35(a)] after the conclusion of the direct appeal." We therefore decline to apply the plain error standard. See *People v. Tallent*, 2021 CO 68, ¶ 11 ("[A]n appellate court has an independent, affirmative duty to determine . . . what standard of review should apply, regardless of the positions taken by the parties.").

is manifestly arbitrary, unreasonable, or unfair, or when it fails to exercise its discretion due to its erroneous construction of the law.”

*People v. Herrera*, 2014 COA 20, ¶ 16 (citations omitted).

## 2. Governing Law and Discussion

¶ 40 Omar argues that the following violations of section

18-1.3-407(5) occurred:

- “[T]he DOC did not complete the transfer process of section 18-1.3-407(5)(a) within sixty days,” and “[o]n two occasions while Mr. Omar was being held in the adult facility prior to resentencing, more than sixty days passed without court action.”
- The district court did not review Omar’s sentence within 126 days, in violation of section 18-1.3-407(5)(c).
- “[T]he DOC did not transport Mr. Omar to the local jail within thirty-five days” of the executive director’s decision to uphold the DOC’s determination, in violation of section 18-1.3-407(5)(c).

¶ 41 Omar contends that the district court should have remedied these violations by (1) dismissing the prosecution’s motion to revoke his YOS sentence; (2) imposing “a lesser remedy,” such as “a

discretionary sentence instead of the suspended sentence”; or  
(3) reducing Omar’s sentence “by the days equal to the delays in  
this proceeding.” By instead ordering no remedy at all, he argues,  
the court abused its discretion.

¶ 42 To start, however, it is not clear that any violation of section  
18-1.3-407(5)(a) occurred. As the People point out, that provision  
applies when the DOC transfers a youthful offender “to another  
facility” because he “poses a danger to himself . . . or others.”  
§ 18-1.3-407(5)(a). But the record contains no evidence that the  
DOC transferred Omar from YOS custody at the La Vista  
Correctional Facility in Pueblo to any other facility (except to the  
Arapahoe County jail for his court appearances in December 2019  
and August 2020) or held him in isolation or segregation. Omar  
argues that the “classification unit at the La Vista Correctional  
Facility” is an adult facility,<sup>7</sup> but the People dispute that

---

<sup>7</sup> Specifically, defense counsel stated at Omar’s resentencing  
hearing that

from the time the Department made the  
decision to seek revocation, [Omar] was  
removed from the YOS program, and he’s been  
held in the Classification Unit at La Vista

characterization, the district court did not address the factual question, and it is not our place to make findings of fact on appeal. *See Carousel Farms Metro. Dist. v. Woodcrest Homes, Inc.*, 2019 CO 51, ¶ 18 (“[T]rial courts make factual findings and appellate courts ‘pronounc[e]’ law.”) (second alteration in original) (citation omitted). Thus, the record does not reveal any violation of section 18-1.3-407(5)(a)’s directive that “[i]n no case shall an offender initially sentenced to the youthful offender system be held in isolation or segregation or in an adult facility for longer than sixty consecutive days without action by the sentencing court.”

¶ 43 Nevertheless, it is undisputed that the district court, the People, and the DOC violated the 35-day and 126-day timelines in section 18-1.3-407(5)(c). And in *Martinez*, ¶¶ 28, 30 & n.3, a division of our court concluded that a district court may fashion an

---

Correctional Facility, which is a part of the same complex. He has been at that facility, but he has not been in the YOS portion of that complex, and he has not participated in YOS programming for more than a year.

Other than counsel’s assertions, however, nothing in the record indicates that Omar was ever transferred out of YOS custody, except for trips to the Arapahoe County jail for his hearings.

appropriate remedy when violations of the mandatory terms of the YOS statute occur. The *Martinez* division reasoned that the YOS statute “does not provide a remedy” for violations of the DOC’s mandatory deadlines in subsection (5), so if the district court did not have discretion to remedy such violations, the deadlines would be “superfluous” and “meaningless.” *Id.* at ¶¶ 28, 30.

¶ 44 The district court acknowledged that it had discretion to impose a remedy, but it concluded that none was warranted because (1) the delays related to the pandemic and the failure of writs to transport Omar were not attributable to the People; and (2) the court had imposed the initially suspended DOC sentence on the condition that Omar successfully complete his YOS sentence, and Omar did not dispute that he had failed to comply with the YOS’s terms and conditions. None of those conclusions were abuses of the court’s discretion.

¶ 45 And contrary to Omar’s assertion, allowing the district court to impose no remedy does not render the deadlines in the YOS statute meaningless. Rather, the violations of this statute gave the court discretion to dismiss the revocation petition. *See id.* at ¶ 30. The court recognized this discretion but, after considering the reasons

for the violations, chose not to impose a remedy “in this particular set of circumstances.”

¶ 46 Accordingly, the district court did not abuse its discretion by imposing Omar’s previously suspended DOC sentence.

### III. Conclusion

¶ 47 For these reasons, we affirm the district court’s order revoking Omar’s YOS sentence and imposing the previously suspended fifteen-year DOC sentence.

JUDGE PAWAR and JUDGE DAVIDSON concur.