

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS LEE BOWMER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42996

**FILED**

**JUL 23 2004**

ORDER OF AFFIRMANCE

JANETTE M. BLOOR  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from a district court order revoking appellant Douglas Lee Bowmer's probation. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On October 2, 2003, Bowmer was convicted, pursuant to a guilty plea, of one count of statutory sexual seduction. The district court sentenced Bowmer to a prison term of 12 to 36 months and then suspended execution of the sentence, placing Bowmer on probation for a time period not to exceed 3 years. Bowmer did not file a direct appeal.

On January 12, 2004, the Division of Parole and Probation filed a violation report against Bowmer alleging that he violated his probation, in part, by having contact with the victim, failing to enroll in counseling and failing to pay restitution and court-ordered fees. On February 12, 2004, the district conducted a probation revocation hearing. At the hearing, the following colloquy occurred:

The Court: Did you contact the victim by phone and have substantial discussions with her, contrary to what the order required.

Bowmer: Yes.

The Court: I accept your stipulation as to those facts. Why?

Bowmer: I don't have any excuse or any reason why, probably stupidity.

The Court: Do you remember when I gave you probation I told you it was a one-time deal?

Bowmer: Yes.

After hearing arguments from counsel, the district court revoked Bowmer's probation. Bowmer filed this timely appeal.

Bowmer contends that the district court acted arbitrarily and capriciously because, in revoking his probation, the district court merely "rubber-stamp[ed]" the probation officer's recommendation and applied a "one-time deal" policy thereby denying Bowmer an individualized hearing with due process protections. Alternatively, Bowmer contends that the district court erred in revoking his probation based on his prior criminal history. In support of his argument, Bowmer points out that, at the revocation hearing, the district court inquired into the circumstances surrounding his prior conviction for annoying a minor. We conclude that Bowmer's contention lacks merit.

The decision to revoke probation is within the broad discretion of the district court, and will not be disturbed absent a clear showing of abuse.<sup>1</sup> Evidence supporting a decision to revoke probation must merely be sufficient to reasonably satisfy the district court that the conduct of the probationer was not as good as required by the conditions of probation.<sup>2</sup> In this case, the district court acted within its broad discretion in revoking probation because Bowmer stipulated to the probation violations alleged by the State. Additionally, Bowmer's admission to the probation violations eliminated the need to admit evidence of those violations at an

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<sup>1</sup>Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974).

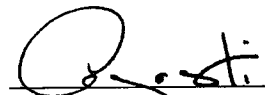
<sup>2</sup>Id.

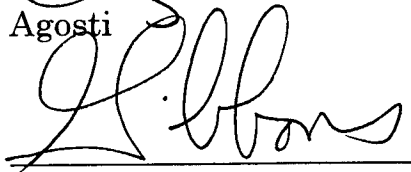
evidentiary hearing.<sup>3</sup> Finally, the district court did not err in discussing Bowmer's prior criminal offense at the probation revocation hearing because it was a relevant factor in determining whether to revoke his probation.<sup>4</sup> Accordingly, we conclude that Bowmer's constitutional rights were not violated, and no abuse of discretion occurred.

Having considered Bowmer's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Gibbons

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<sup>3</sup>See Anaya v. State, 96 Nev. 119, 123, 606 P.2d 156, 158 (1980) ("a probationer has a due process right to confront and question witnesses giving adverse information at the formal revocation hearing"); see also Jaeger v. State, 113 Nev. 1275, 948 P.2d 1185 (1997).

<sup>4</sup>See generally Jaeger, 113 Nev. at 1285, 948 P.2d at 1191 (Shearing, C.J., concurring) (recognizing the "dual nature" of a probation revocation determination: the district court first determines whether the probation violation has been proved and, second, considers "other relevant factors" in determining whether to revoke a grant of probation).

cc: Hon. Donald M. Mosley, District Judge  
Potter Law Offices  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk