

IN THE SUPREME COURT OF THE STATE OF NEVADA

LESEAN TARUS COLLINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44400

**FILED**

MAY 04 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court revoking appellant Lesean Tarus Collins' probation. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

On November 7, 2001, Collins was convicted, pursuant to a guilty plea, of one count of possession of a controlled substance, a category E felony. The district court sentenced Collins to a prison term of 19-48 months, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed 3 years.

On May 7, 2003, the State filed a notice of intent to revoke Collins' probation. The district court conducted a hearing and Collins admitted to violating the terms of his probation. Nevertheless, the district court reinstated Collins' probation, albeit requiring that he serve an additional 30 days of jail time.

On April 5, 2004, the State filed another notice of intent to revoke Collins' probation. The district court conducted a hearing, and once again, Collins conceded that he violated the terms of his probation. Defense counsel informed the district court that the case had been negotiated with Collins' probation officer, and that Collins agreed to serve 60 days in jail and receive a dishonorable discharge from probation. The prosecutor, however, stated that the probation officer had not discussed

the matter with him, and disagreed with and objected to the negotiations. Collins had a trial pending on unrelated charges, and the district court decided to continue the probation revocation proceedings until after that trial, stating, "I want to see what happens with that case."

On November 5, 2004, the probation revocation hearing resumed and the district court was informed that Collins' other case had not been negotiated and that trial was now set for January 2005. The State also informed the district court that Collins was arrested on October 5, 2004, on new charges – battery by a prisoner and battery with substantial bodily harm. After hearing arguments from the State, the district court revoked Collins' probation and imposed the original sentence. This timely appeal followed.

Collins contends that the district court abused its discretion in revoking his term of probation. More specifically, Collins argues that his right to due process was violated because the district court revoked his probation "without any testimony or other factual support," and he was unable to confront the witnesses against him prior to the district court's determination. We disagree with Collins' contention.

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>

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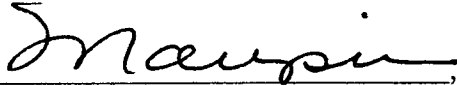
<sup>1</sup>Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974).

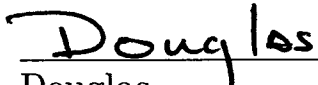
<sup>2</sup>Id.

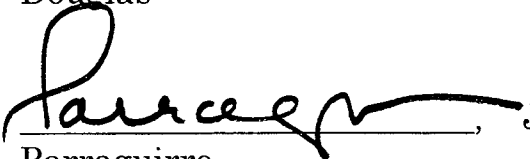
In the instant case, Collins is unable to demonstrate that the district court abused its discretion or violated his right to due process in revoking his probation. Although the State did not present witnesses at the hearing held on November 5, 2004, a representative from the Division informed the district court that the Division would “stand on the reports” and recommend revoking Collins’ term of probation. Collins never offered evidence or contested the fact that he violated the terms of his probation numerous times in a variety of ways. Accordingly, we conclude that the district court acted within its discretion when it revoked Collins’ probation.<sup>3</sup>

Having considered Collins’ contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>3</sup>See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted).

cc: Hon. Michael A. Cherry, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk