

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL EUGENE RAMIREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44874

FILED

NOV 18 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Schenk*
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court revoking appellant Miguel Eugene Ramirez's probation. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On March 29, 2004, Ramirez was convicted, pursuant to a guilty plea, of two counts of attempted lewdness of a child under the age of 14 years. The district court sentenced Ramirez to two concurrent prison terms of 32-144 months and ordered him to pay \$2,237.43 in restitution. The district court suspended execution of the sentence and placed Ramirez on probation with numerous conditions for an indeterminate period not to exceed 5 years. Ramirez did not pursue a direct appeal from the judgment of conviction and sentence.

In October of 2004, the Division of Parole and Probation (the Division) submitted a probation violation report to the district court. The report noted that Ramirez had been accepted for supervision by probation authorities in Colorado. According to the supervising officers in Colorado, Ramirez violated the terms of his probation by, among other things,

admitting to consuming controlled substances and alcohol, and by having inappropriate contact with his girlfriend's three-year old daughter. On January 7, 2005, the State filed a notice of intent seeking to revoke Ramirez's probation.

The district court conducted a hearing and the only witness for the State was a representative from the Division, Officer Deborah Worthington. Officer Worthington testified that she was not the author of the violation report, but that she was familiar with Ramirez's file and the information provided therein courtesy of the supervising officers in Colorado. After hearing arguments from counsel, the district court revoked Ramirez's term of probation, stating that Ramirez "was clearly not to be around minor children, [and] clearly of his own admission did so." Ramirez filed a motion to reconsider revocation and the State filed an opposition to the motion. The district court heard arguments from counsel, and on April 11, 2005, entered an order denying Ramirez's motion for reconsideration. This timely appeal followed.

Ramirez's sole contention is that the district court abused its discretion in revoking his term of probation. Relying on Anaya v. State for support,¹ Ramirez argues that his right to due process was violated

¹Anaya 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"); but also see id. ("the form of the information is important in striking the due process balance: not every use, of course, of hearsay evidence which is reliable runs afoul of the due process clause").

because (1) he was unable to confront the witnesses against him, and (2) the district court based its determination on “multiple hearsay.” We disagree with Ramirez’s 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.² 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.³

In the instant case, Ramirez is unable to demonstrate that the district court abused its discretion in revoking his probation. At the probation revocation hearing, Ramirez never offered evidence or contested the fact that he violated the terms of his probation numerous times in a variety of ways. In fact, defense counsel spoke on Ramirez’s behalf and conceded that Ramirez violated the terms of his probation. Defense counsel, instead, argued that the violations were minor “in the overall scheme of things” and do not warrant “a trip to prison.” Accordingly, based on all of the above, we conclude that Ramirez’s conduct was not as

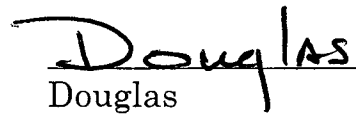
²Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974).


³Id.

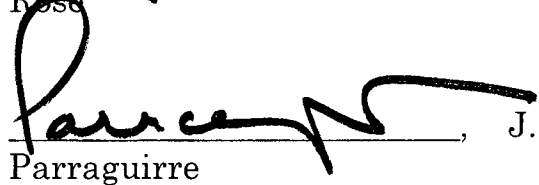
good as required by the conditions of his probation, and that the district court acted within its discretion when it revoked his probation.⁴

Having considered Ramirez's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Douglas

 _____, J.
Rose

 _____, J.
Parraguirre

cc: Hon. Valorie Vega, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁴See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted).