

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES CARL FRENCH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47250

FILED

OCT 17 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking probation. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On February 1, 2003, appellant Charles Carl French was convicted, pursuant to a guilty plea, of one count of attempted burglary. The district court sentenced French to a prison term of 12 to 36 months, but then suspended execution of the sentence and placed French on probation for a time period not to exceed 3 years.

On December 28, 2005, French was arrested for burglary and obtaining prescription medication by fraud. The State sought revocation of French's probation. After conducting a hearing, the district court entered an order revoking probation. French filed this timely appeal.

French argues that the district court abused its discretion by revoking his probation based solely on allegations made in a police report. Citing to cases from other jurisdictions,¹ French argues that in order to

¹See, e.g., Nicholson v. State, 440 So. 2d 1205 (Ala. Crim. App. 1983); Anderson v. State, 624 So. 2d 362 (Fla. Dist. Ct. App. 1993); State v. Rexford, 658 So. 2d 27 (La. Ct. App. 1995); People v. Buckner, 302 N.W.2d

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revoke a grant of probation based on a new arrest there must be some verified facts in the record from which a court can find from a preponderance of the evidence that the probationer actually committed the charged offense. We conclude that the district court acted within its discretion by revoking probation.

"Due process requires, at a minimum, that a revocation must be based upon 'verified facts' so that 'the exercise of discretion will be informed by an accurate knowledge of the [probationer's] behavior.'"² This court has recognized that an arrest report is "prima facie evidence of the facts it contains."³ Further, the district court has broad discretion with respect to probation revocation, and its ruling need only be supported by evidence that the probationer's conduct has not been as good as required by the conditions of probation.⁴

In this case, the district court relied on the police report detailing the circumstances of the arrest and testimony from French's probation officer as prima facie evidence that French failed to abide by the conditions of his probation. Although French disputed the accuracy of the allegations in the police report and informed the district court that he was

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848 (Mich. Ct. App. 1980); Wester v. State, 542 S.W.2d 403 (Tex. Crim. App. 1976).

²Anaya v. State, 96 Nev. 119, 123, 606 P.2d 156, 157 (1980) (quoting Morrissey v. Brewer, 408 U.S. 471 (1972)).

³Id. at 123-24, 606 P.2d at 158-59.

⁴See Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974)

not in a pharmacy with a false prescription, the district court found French's statement was not credible. Accordingly, we conclude that there was sufficient evidence in support of the district court's decision to revoke probation.

Having considered French's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Stewart L. Bell, 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