

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENYAUN LEMAR BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49818

FILED

OCT 18 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY A. Alvarado
DEPUTY CLERK

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

On December 1, 2006, the district court convicted appellant Kenyaun Lemar Brown, pursuant to a guilty plea, of one count of attempted possession of a stolen vehicle. The district court sentenced Brown to a prison term of 12 to 32 months, ordered the sentence to be suspended, and placed Brown on probation for a period not to exceed 3 years. Brown did not file a direct appeal. On June 25, 2007, following a probation revocation hearing, the district court revoked Brown's probation and imposed the original sentence with credit for time served. This timely appeal follows.

Brown contends that the district court abused its discretion by revoking his probation. He specifically claims that he was denied his due process right to confront and examine witnesses giving adverse information when the State presented hearsay evidence that he was arrested while on probation.

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.¹ 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.² However, "[d]ue process requires, at a minimum, that a revocation be based upon 'verified facts' so that 'the exercise of discretion will be informed by an accurate knowledge of the [probationer's] behavior.'"³

Here, even assuming that hearsay evidence that Brown had been arrested during his probationary period was improperly admitted,⁴ the probation officer's testimony that Brown had not met his supervision fee and restitution obligations, maintained full-time employment, or enrolled in an impulse control counseling program was admissible. The district court could reasonably infer from this testimony that Brown's conduct was not as good as required by the conditions of his probation. Accordingly, we conclude that the district court did not abuse its discretion by revoking Brown's probation.

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

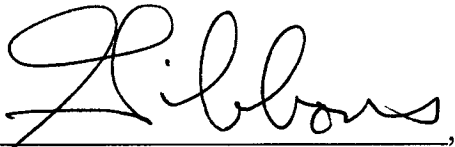
²Id.

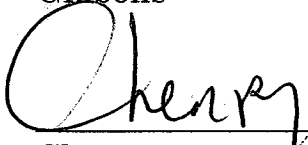
³Anaya v. State, 96 Nev. 119, 122, 606 P.2d 156, 157 (1980) (quoting Morrissey v. Brewer, 408 U.S. 471, 484 (1972)).


⁴See generally id. at 124-25, 606 P.2d at 159-60.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Jackie Glass, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk