

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49902

FILED

JAN 30 2008

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

Moore was convicted, pursuant to a guilty plea, of one count of possession of a controlled substance. The district court sentenced Moore to a prison term of 24-60 months, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed 18 months. Moore did not pursue a direct appeal from the judgment of conviction.

On March 16, 2007, after Moore was arrested for an unrelated offense, the State filed a notice of intent to seek revocation of his probation. The district court conducted two hearings, and on June 29, 2007, entered an order revoking Moore's probation and imposing the original sentence with credit for time served. This timely appeal followed.

Moore contends that the district court abused its discretion in revoking his probation. Specifically, Moore claims there was insufficient evidence adduced at the revocation hearings in support of the new charge he was facing – grand larceny auto – and that the district court revoked

his probation based on its determination that he committed the crime. We conclude that Moore is not entitled to relief.

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

Moore is unable to demonstrate that the district court abused its discretion in revoking his probation. At the revocation hearings, the district court heard testimony from the arresting officer involved in the “bait run operation,” and Bruce Brown, Moore’s friend who drove away in the bait vehicle, a 2006 Cadillac Escalade. The district court also heard arguments from the State and defense counsel. At the conclusion of the second hearing, the district court made the following ruling:

The thing that complicates this is that, to my mind, clearly Mr. Moore aided Mr. Brown in that he retrieved Mr. Brown’s vehicle and made sure that it was taken along with Mr. Brown as he stole this Cadillac, and to further confirm that we have this telephone call which clearly, in my judgment, is Mr. Brown’s attempt to communicate with Mr. Moore as Mr. Moore is following him and they are going to – I wrote here will something together when we get home.

Clearly they had in mind they were going to join up at their apartment complex where they

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

²Id.

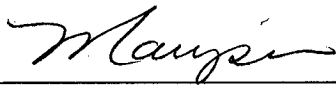
shared an area; if not apartments, certainly an area.

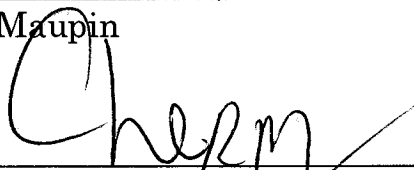
It's clear to me where they were headed and why. They were stealing this vehicle.

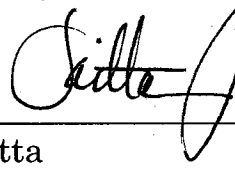
That would be sufficient to revoke Mr. Moore. He is so revoked.

Based on the above, we conclude that the district court did not abuse its discretion by finding that Moore's conduct was not as good as required by the conditions of his probation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Donald M. Mosley, 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