

IN THE SUPREME COURT OF THE STATE OF NEVADA

DORIS ALLEN KOONCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50275

FILED

MAR 27 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On June 19, 2004, the district court convicted appellant Doris Allen Koonce, pursuant to a guilty plea, of one count of possession of a controlled substance with the intent sell. The district court sentenced Koonce to a prison term of 18 to 48 months, ordered the sentence to be suspended, and placed Koonce on probation for a period not to exceed three years. Koonce did not file a direct appeal.

On August 8, 2007, the State filed a notice of intent to seek revocation of probation. The district court subsequently conducted a probation revocation hearing, during which the following colloquy occurred:

THE COURT: You were required to go to the Help Center to do community service; you did 24 hours of community service of the 16 months required. You are approximately 551 hours in arrears at this time.

You were referred to the Drug Court. However, you were terminated from the Drug Court for failure to appear.

You last appeared at your probation officer's office June 5, 2005. Thereafter, there was no contact with you and you were declared to be an absconder.

The investigator from the department went out to your last known address and you were not living there at the time. You were referred to get your GED on October 7, 2004, and no proof of enrollment has been forthcoming and you tested positive for illegal drugs both on July 12, 2005 and 15 of July 2005.

Are these things essentially true?

THE DEFENDANT: Yes.

THE COURT: I accept your stipulation.

After listening to Koonce's explanations, arguments from counsel, and comments from the Division of Parole and Probation, the district court revoked Koonce's probation. This appeal follows.

Koonce contends that the district court abused its discretion by revoking her probation because it failed to consider any alternative to revocation.¹ Koonce asserts that "District Court Department 14 has a per se rule that if a probationer is brought back to court on a violation report, the probationer will be revoked and will serve the original underlying sentence. This is told to every person who is granted probation in Department 14." And Koonce claims that the district court's policy to give

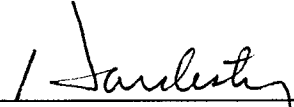
¹Koonce cites to NRS 176A.630 (providing alternative actions to revocation) and NRS 176A.870 (listing the requirements for a dishonorable discharge from probation).

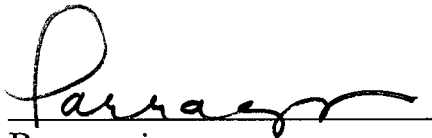
probationers only one chance to successfully complete probation amounts to arbitrary decision-making and is therefore an abuse of discretion.

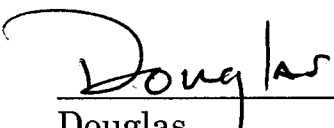
The decision to revoke probation is within the broad discretion of the district court, and will not be disturbed absent a clear showing of abuse.² Evidence supporting a decision to revoke probation must merely be sufficient to reasonably satisfy the district court that the conduct of the probationer was not as good as required by the conditions of probation.³ Here, as evidenced by her stipulation, Koonce's conduct was not as good as required. Under these circumstances, we conclude that the district court did not abuse its discretion by revoking Koonce's probation.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

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

³Id.

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