

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLIE LINN SHEPPARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52669

FILED

JAN 07 2010

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 appellant's probation. Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge. Appellant makes five arguments.

First, appellant argues that the district court should not have allowed him to represent himself during the revocation proceedings. We "give deference to the district court's determination that the defendant waived his or her right to counsel with a full understanding of the disadvantages and clear comprehension of the attendant risks." Harris v. State, 113 Nev. 799, 802, 942 P.2d 151, 153-54 (1997). The record shows that the district court conducted a thorough canvass, that appellant wished to represent himself and was competent to do so, and that appellant knowingly and voluntarily waived his right to counsel. We therefore see no error in the district court's determination.

Second, appellant argues that the district court erred in failing to record conversations between appellant and stand-by counsel. He fails, however, to cite any controlling legal authority requiring the court to record privileged communications between a criminal defendant and stand-by counsel. We therefore conclude that this argument lacks merit.

Third, appellant argues, based on his testimony at the revocation hearing, that the State presented insufficient evidence to support the revocation. We will not reverse a district court's decision to revoke probation absent a clear showing of an abuse of discretion. Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). There was no abuse of discretion because the record demonstrates sufficient evidence that could "reasonably satisfy" the district court that appellant's conduct was not "as good as required by the conditions of probation." Id.

Fourth, appellant argues that he had already completed the probationary term at the time of the alleged violations. This claim lacks merit because the record demonstrates that even if appellant was entitled to all of the credits allowed under NRS 176A.500(5), he had not expired the probationary term at the time of the alleged violations.¹


Finally, appellant argues that he was denied the right to confront and cross-examine witnesses when the district court quashed his subpoenas for several witnesses. The record reflects that the additional witnesses that appellant sought to present either lacked personal knowledge of any relevant facts or would provide cumulative testimony. The district court therefore properly quashed the subpoenas. See Jaeger v. State, 113 Nev. 1275, 1280-81, 948 P.2d 1185, 1188-89 (1997) (concluding that probationer does not enjoy same rights as criminal defendant to subpoena documents and, at a minimum, must show that the documents are material).

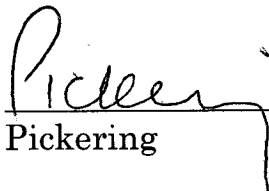
¹As established during the revocation hearing, the "original expiration" date indicated on the violation reports included a typographical error.

Having considered appellant's arguments and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Richard Wagner, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk