

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARL MICHAEL DELLAVELLA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55425

FILED

MAY 10 2010

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order revoking probation. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Appellant claims that his due process rights were violated because the district court denied him an opportunity to present witnesses and mitigating evidence at the revocation hearing. See Morrissey v. Brewer, 408 U.S. 471, 488-89 (1972) (setting forth minimum due process requirements necessary to revoke parole); Gagnon v. Scarpelli, 411 U.S. 778, 782 (1973) (due process rights identified in Morrissey also apply to probation revocation hearings). The State concedes the error. Having reviewed the record on appeal, we agree that appellant was denied his due process rights at the probation revocation hearing, and we

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Steven R. Kosach, District Judge
Law Office of Gemma Greene Waldron, PLLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk