

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEYBI YAMIL MENDOZA-GALINDO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56021

FILED

SEP 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. Wood
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to commit the crime of sex offender failure to change address. First Judicial District Court, Carson City; James E. Wilson, Judge.

Appellant Deybi Yamil Mendoza-Galindo challenges the probation condition that precludes him from consuming alcohol. The Legislature has granted district courts the power to impose conditions on probation. NRS 176A.400(1). As a result, the district court has broad discretion to fix the conditions of probation. Igbinovia v. State, 111 Nev. 699, 707, 895 P.2d 1304, 1309 (1995). The no-alcohol condition imposed in this case is consistent with NRS 176A.400(1)(c)(4). If Mendoza-Galindo “consider[ed] the conditions of probation more harsh than the sentence the court would otherwise impose, he [had] the right to refuse probation and undergo the sentence” and then challenge the legality of the proposed condition on appeal. Himmagine v. State, 88 Nev. 296, 299, 496 P.2d 763, 765 (1972) (quoting People v. Mason, 488 P.2d 630, 632 (Cal. 1971) disapproved on other grounds by People v. Lent, 541 P.2d 545, 548 n.1 (Cal. 1975)). Instead, Mendoza-Galindo told the district court before

imposition of the sentence that he was "willing to comply with any conditions" that the court imposed and to "follow any of [the court's] instructions." He later signed the probation agreement, accepting probation with the no-alcohol condition. Under these circumstances, we conclude that Mendoza-Galindo is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James E. Wilson, District Judge
Carson City Clerk
Attorney General/Carson City
Carson City District Attorney
State Public Defender/Carson City