

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE GUADALUPE HUITRON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56933

FILED

JUN 08 2011

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

ORDER OF AFFIRMANCE

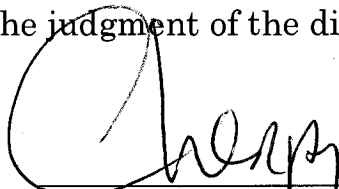
This is an appeal from a district court order revoking appellant Jose Guadalupe Huitron's probation. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

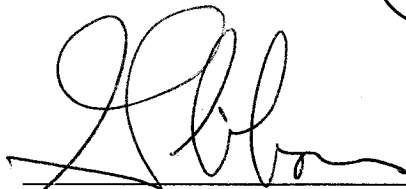
Huitron contends that his probation expired before he reentered the country illegally and was subject to the instant revocation proceedings because the arrest warrant issued after his deportation did not toll the probationary period. Huitron also claims that the State failed to prove that he was able to pay restitution and chose not to and that it was impossible to comply with the remaining conditions of probation without violating the directives of the Department of Homeland Security.


Pursuant to NRS 176A.500(2), a probationary period is tolled when an arrest warrant is in effect and outstanding for a probation violation. Huitron's two-year probationary term was originally set to expire in 2008, however, the period was tolled by the issuance of the arrest warrant in 2006. After Huitron reentered the country illegally in 2010, he was taken into custody and the State sought revocation of his probation. Huitron has provided no relevant authority or persuasive argument in support of his claim that his deportation invalidated the arrest warrant or that his probationary term expired.

Additionally, the district court conducted a revocation hearing and found that Huitron's conduct was not as good as required by the conditions of his probation because he reentered the country illegally. See Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). In fact, Huitron concedes that he violated one of the conditions of his probation by reentering the country illegally. See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted). Therefore, we conclude that the district court did not abuse its discretion by revoking Huitron's probation, see Lewis, 90 Nev. at 438, 529 P.2d at 797, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Valerie Adair, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk