

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAM VINCENT ROGERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58012

FILED

NOV 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Anderson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court revoking appellant Sam Vincent Rogers' probation. Seventh Judicial District Court, Eureka County; Steve L. Dobrescu, Judge.

Rogers contends that the district court erred by considering his use of constitutionally protected speech when it revoked his probation. 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. Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). The record on appeal does not demonstrate that the district court relied solely on Rogers' use of constitutionally protected speech when it revoked his probation. Instead, it reveals that the district court conducted a probation revocation hearing; found that Rogers violated the conditions of his probation by drinking to excess, not obeying instructions, and being disruptive; and determined that Rodgers' conduct was not as good as required by the conditions of his probation. See id. Based on this record, we conclude that

Rogers has not demonstrated that the district court abused its discretion by revoking his probation, and we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Ely
State Public Defender/Carson City
Attorney General/Carson City
Eureka County District Attorney
Eureka County Clerk