

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD CHRISTOPHER CARR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60288

FILED

DEC 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking probation. Second Judicial District Court, Washoe County; Robert E. Estes, Senior Judge.

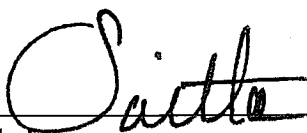
Appellant Donald Christopher Carr contends that the district court abused its discretion by relying upon a factually and legally unsupportable basis to revoke his probation: the constructive possession of a controlled substance. Carr specifically argues that the district court's finding does not comport with this court's test for constructive possession of a controlled substance. See Marshall v. State, 110 Nev. 1328, 1332-33, 885 P.2d 603, 606 (1994).

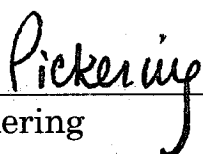
The decision to revoke probation is within the broad discretion of the district court and will not be disturbed absent a clear showing of abuse. Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). "Evidence beyond a reasonable doubt is not required to support a court's discretionary order revoking probation. The evidence and facts must reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation." Id.

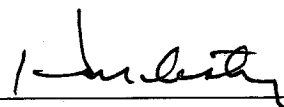
Our review shows that the district court's decision is supported by the record. The State presented evidence that a trooper

stopped a vehicle that Carr was riding in because it had a broken taillight, Carr was a passenger in the car and there was a warrant for his arrest, the trooper found a bag of marijuana directly under Carr's seat, and Carr told the trooper that the marijuana was not his and offered to provide a urine sample for testing. The district court found that the State had proved the violation and stated that if Carr was not in "actual possession, then he certainly had constructive possession and knew what the substance was when the [trooper] found it." We conclude that the evidence shows that Carr's conduct was not as good as required by the conditions of probation, and therefore the district court did not abuse its discretion by revoking Carr's probation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. Robert E. Estes, Senior Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk