

IN THE SUPREME COURT OF THE STATE OF NEVADA

STUART EUGENE COLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60307

FILED

NOV 15 2012

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking appellant Stuart Eugene Cole's probation. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

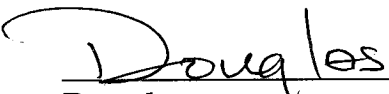
Cole contends that the district court abused its discretion by revoking his probation because it "only focus[ed] on the bad things [he] did and gave little or no consideration to [his] triumphs." Cole also claims that his due process rights were violated because the district court's findings in revoking his probation "failed to make it to the final judgment." We disagree with Cole's contentions.

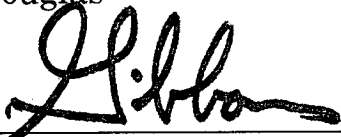
The district court's decision to revoke probation will not be disturbed absent an abuse of discretion. Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). At the first revocation hearing, Cole conceded that he failed to comply with several conditions of his probation. See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted). At the second hearing, the State presented several witnesses and the district court heard arguments from counsel. The district court addressed each of the alleged violations and stated its findings, noting that Cole admitted to

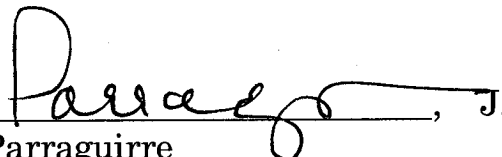


several violations and the State proved several more. The district court found that Cole's conduct was not as good as required and referred to "core things" that required the revocation of his probation, namely, his "continued drinking and continued incidents of violence." See Lewis, 90 Nev. at 438, 529 P.2d at 797. In its order revoking Cole's probation, the district court listed each of the violations either dismissed, admitted, or proven by the State beyond a reasonable doubt. We conclude that Cole's due process rights were not violated and the district court did not abuse its discretion by revoking his probation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Chief Judge, Seventh Judicial District Court
State Public Defender/Ely
State Public Defender/Carson City
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk