

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL SHILLITO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60613

FILED

DEC 13 2012

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

ORDER OF AFFIRMANCE

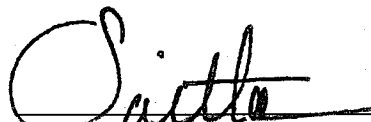
This is an appeal from a district court order revoking appellant Michael Shillito's probation and imposing the original sentence. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

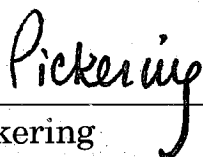
Shillito contends that the district court abused its discretion by revoking his probation because he is a drug addict, the probation violations were a result of a relapse, and the revocation is tantamount to punishing him for his drug addiction.¹ We review the district court's decision to revoke probation for abuse of discretion. Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). During the revocation hearing, Shillito admitted that he smoked marijuana and spice, failed to complete an outpatient rehabilitation program, and did not pay his monthly supervision fees. Based on these admissions, we conclude that the district


¹To the extent that Shillito claims that the probation revocation constitutes cruel and unusual punishment, we note that the revocation was merely the reinstatement of Shillito's original sentence for the underlying crime, and not punishment for the conduct that led to the revocation. See U.S. v. Brown, 59 F.3d 102, 104-05 (9th Cir. 1995); People v. Hawkins, 119 Cal. Rptr. 54, 60 (Ct. App. 1975) (the "revocation of probation is not 'punishment'" within the context of the constitutional proscription against cruel and unusual punishment).

court could reasonably find that Shillito's conduct was not as good as required by the conditions of his probation and therefore did not abuse its discretion by revoking his probation. See id. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Seventh Judicial District Court, Dept. 2
State Public Defender/Ely
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk