

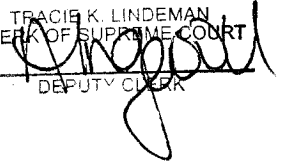
IN THE SUPREME COURT OF THE STATE OF NEVADA

ALYSSA ROWE A/K/A ALYSSA LYNN  
ROUSE,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63477 .

**FILED**

NOV 13 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a second amended judgment of conviction and a district court order revoking appellant's probation. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

On January 23, 2013, appellant was convicted, pursuant to a guilty plea, of child abuse. The district court sentenced her to 24 to 60 months in prison, ordered the sentence suspended, and placed her on probation for an indeterminate period not to exceed 5 years. A few months later, the Department of Parole and Probation filed two violation reports, and, on June 10, 2013, after conducting a hearing, the district court entered an order revoking appellant's probation and imposing the original sentence with credit for time served.

Appellant argues that the district court erred by revoking her probation based solely on hearsay evidence, thereby denying her confrontation and due process rights. 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 supporting a decision to revoke probation must be merely sufficient to reasonably satisfy the district court that the

conduct of the probationer was not as good as required by the conditions of probation. *Id.* However, “[d]ue process requires, at a minimum, that a revocation be based upon ‘verified facts’ so that ‘the exercise of discretion will be informed by an accurate knowledge of the [probationer’s] behavior.’” *Anaya State*, 96 Nev. 119, 122, 606 P.2d 156, 157 (1980) (alteration in original) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 484 (1972)).

Appellant’s revocation is based on two violations—(1) a misdemeanor conviction for DUI and (2) contacting the child abuse victim’s father, Chad Flood. Appellant stipulated to the DUI conviction but argues that the district court’s finding of the second violation was based solely on the hearsay testimony of her probation officer. At the revocation hearing, appellant’s probation officer testified that appellant admitted to him that she contacted Flood soon after her release jail<sup>1</sup> and that Flood had advised him that appellant had contacted Flood on numerous occasions. While the probation officer’s testimony concerning Flood’s statements constituted hearsay, his testimony that appellant admitted to contacting Flood is an exception to the hearsay rule. *See* NRS 51.035(3)(a) (providing that a statement that is offered against a party and is the party’s own statement is not hearsay). But even so, appellant’s revocation was also based on her DUI conviction, to which she stipulated. And the district court expressly stated that it “[put] a lot more weight on the DUI arrest” than on the contact violation in deciding to revoke appellant’s probation. We conclude that the evidence shows that

---

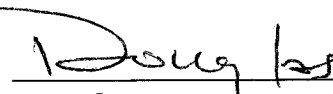
<sup>1</sup>One of the conditions of appellant’s probation was to serve seven months in jail.


appellant'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 appellant's probation.

Having considered appellant's arguments and concluded that they lack merit, we

ORDER the second amended judgment of conviction and the district court's order revoking probation AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Jerome T. Tao, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk