

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA ALEXANDER DURAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63869

FILED

NOV 13 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking probation. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

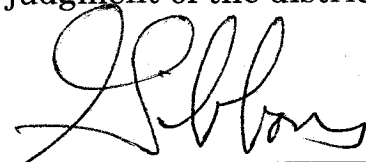
Appellant was convicted, pursuant to a guilty plea, of attempted burglary. The district court sentenced him to 12 to 36 months in prison, ordered the sentence suspended, and placed him on probation for an indeterminate period of time not to exceed 5 years. Nearly three weeks later, the Department of Parole and Probation (P&P) filed a violation report. Appellant waived his right to a revocation hearing, and the district court entered an order revoking his probation and imposing the original sentence with credit for time served.

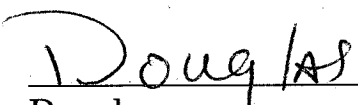
Appellant argues that the district court acted arbitrarily and capriciously by revoking his probation without considering any of the statutory alternatives found in NRS 176A.630, including imposing a period of incarceration as a condition to reinstatement. The decision to revoke probation is within the 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 v. 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 was based on his failure to keep two appointments with P&P, resulting in P&P not knowing the location of his residence and his employment status. And he was arrested after running from Sparks police officers for unknown reasons. The district court revoked appellant’s probation because he “[hasn’t] done one thing to comply with probation.” He argues that the district court’s failure to consider alternatives to revocation and its decision to revoke so soon after appellant was placed on probation suggests that the district court’s ruling was arbitrary and capricious. We disagree. The record shows that appellant’s conduct was not as good as required by the conditions of probation and supports the district court’s decision to revoke his probation. Because the district court did not abuse its discretion in this instance, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk