

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP LAMONT JENKINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35979

FILED

AUG 16 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court revoking appellant's probation.

On December 1, 1998, the district court convicted appellant, pursuant to a guilty plea, of larceny from the person. The court sentenced appellant to serve 12 to 32 months in prison, suspended the sentence and placed appellant on probation for 3 years.

On May 26, 1999, the district court considered a motion to revoke appellant's probation. The court continued the hearing for appellant's probation officer to appear. On June 30, 1999, the court heard from appellant's probation officer, who explained that appellant had been referred to impulse control counseling on three occasions and had failed to comply. The court revoked appellant's probation and imposed the underlying prison term.

However, on July 9, 1999, counsel for appellant asked the district court to reconsider the revocation order because another public defender had represented appellant during counsel's absence and there had been a miscommunication regarding how to proceed in the case. The district court agreed to reconsider revocation. On July 14, 1999, the court struck its prior order revoking probation and reinstated

appellant to probation. The court warned appellant to comply with the conditions of probation.

On March 2, 2000, the State again asked the district court to revoke appellant's probation because appellant failed to maintain contact with the Division of Parole and Probation and left the State of Nevada without permission. The court conducted a revocation hearing on March 16, 2000. At that time, appellant stipulated to the facts alleged in the violation report and asked the court to reinstate him to probation. The court concluded that appellant had violated the conditions of probation, revoked appellant's probation, and imposed the underlying prison term. This appeal followed.

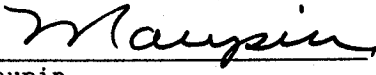
Appellant contends that the district court erred in revoking his probation because he did not violate any of the conditions of probation listed in the judgment of conviction. Appellant contends that the revocation thus does not comport with NRS 176A.630.¹ We disagree.

Beside the fact that appellant did not object below on the ground raised in this appeal, we conclude that appellant's contention lacks merit. Appellant signed a probation agreement that listed ten general conditions of probation. The judgment of conviction merely sets forth additional special conditions of probation; it did not supplant the general conditions set forth in the probation agreement and order admitting appellant to probation and fixing the terms thereof. Pursuant to the probation agreement, appellant had to report to his probation officer each month, could not leave the community without first obtaining permission from his probation officer, and could not

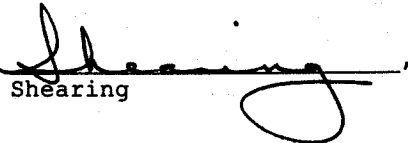
¹NRS 176A.630 provides, in relevant part, that the court may revoke probation "[u]pon determining that the probationer has violated a condition of his probation."

leave the State without first obtaining written permission from his probation officer. These are the conditions that appellant violated.² In signing the agreement, appellant acknowledged that he understood the general conditions, that he would abide by and strictly follow them, and that he understood the penalties involved should he violate them. Because appellant does not dispute that he failed to report and left the community without permission, we conclude that the district court did not abuse its discretion by revoking appellant's probation. See Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974). Accordingly, we

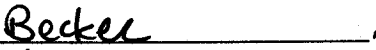
ORDER this appeal dismissed.



Maupin J.



Shearing J.



Becker J.

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

²Although it is not entirely clear from the record, it appears that appellant also violated one of the special conditions set forth in the judgment of conviction: he failed to attend impulse control counseling.