

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANTE LAMAR MINNIEWEATHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66180

FILED

FEB 24 2015

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court revoking probation. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

On October 10, 2012, the district court convicted appellant, pursuant to a guilty plea, of assault with the use of a deadly weapon. The district court sentenced appellant to a prison term of 24 to 72 months, ordered the sentence to be suspended, and placed appellant on probation for a fixed period of 5 years.

On June 24, 2014, the Division of Parole and Probation filed a violation report alleging that appellant violated the conditions of his probation. Thereafter, the district court conducted a probation revocation hearing, revoked appellant's probation, and imposed the original sentence with credit for time served.

Appellant claims that the district court violated his due process right to a fair probation revocation hearing by relying upon unverified facts and depriving him of the opportunity to be heard. Appellant specifically claims that the State's sole witness had been his probation officer for only two months and only had personal knowledge of

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the alleged violations occurring on June 2 and June 11, 2014. Appellant further asserts that he was denied the opportunity to present mitigating information.

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 merely be 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) (internal quotation marks and brackets omitted). Furthermore, the probationer must be given an opportunity to appear and speak on his own behalf, to bring in relevant information, and to question persons giving adverse information. *Id.* at 122, 606 P.2d at 158.


Here, the district court heard testimony that appellant signed a form admitting to ingesting marijuana and drinking beer on October 17, 2012; tested positive for marijuana on February 19, 2014; did not answer the door when the probation officer visited his home after the curfew time on June 2, 2014; was found in possession of alcohol and two large box cutters when the probation officer visited his home on June 11, 2014; owed \$600 in supervisory fees; and had failed to provide proof of his employment.

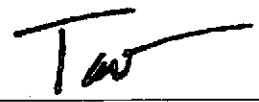
The district court sustained appellant’s objections to hearsay testimony regarding a gang incident and the admission of a police report

about that incident because the police officer involved was not present to lay a proper foundation. Defense counsel cross-examined the State's witness, but did not call any witnesses on appellant's behalf. Defense counsel announced that appellant wanted to address the district court after the court ruled that probation was revoked, but the court ruled that appellant's request was too late.

We conclude from this record that the district court did not violate appellant's due process rights and could reasonably find that appellant's conduct was not as good as required by the conditions of his probation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk