

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID JAMES GALINDO-CLOUD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67152

**FILED**

JUN 16 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order revoking appellant David Galindo-Cloud's probation. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Galindo-Cloud asserts the court abused its discretion and acted arbitrarily and capriciously when revoking his probation. Galindo-Cloud alleges the judge did not consider any statutory alternatives to revoking his probation and, instead, revoked his probation based on the judge's promise, made at a prior revocation hearing, to revoke and impose the underlying sentence if Galindo-Cloud violated his probation again.

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.*

The record does not demonstrate that the judge simply revoked Galindo-Cloud's probation based on his prior warning to Galindo-Cloud or that the judge did not consider alternatives to revoking his probation. At the probation revocation hearing, Galindo-Cloud's probation officer testified Galindo-Cloud signed an admission in September 2014 in which he admitted to using methamphetamine and verbally admitted to using methamphetamine again in October 2014. At the hearing, Galindo-Cloud admitted to using methamphetamine in September, but denied admitting using methamphetamine in October. The court found the officer's testimony regarding Galindo-Cloud's oral admission in October was credible. The judge acknowledged he previously warned Galindo-Cloud he would revoke Galindo-Cloud's probation if he violated his probation again. The judge also stated that he would not revoke on a single use, but it was everything considered together that warranted revocation at this time. The judge noted that since 1998 Galindo-Cloud had accrued over 50 convictions and been given a lot of opportunities to get himself clean. The judge acknowledged he could modify the sentence, but stated


I don't see that this is the type of case where that discretion should be exercised, and it's for the following reason: The defendant has already been given break after break, and leniency upon leniency in this case . . . and I really don't see any reason to give him one more break, one more bit of leniency.

The court found that Galindo-Cloud's conduct was not what was expected of him and revoked his probation, imposing the underlying sentence.

We conclude the district court did not abuse its discretion by revoking Galindo-Cloud's probation and imposing the underlying sentence, therefore we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Elliott A. Sattler, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk