

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIS CASTRO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67112

FILED

NOV 19 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 probation. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant Luis Castro was convicted, pursuant to a guilty plea, of attempted lewdness with a child under the age of 14. The court sentenced Castro to a prison term of 96 to 240 months, suspended the sentence, and placed him on probation. However, eighteen months later, after receiving a violation report, the court revoked Castro's probation and imposed the original sentence.

Castro claims the district court abused its discretion by revoking his probation because he did not violate any of the written terms of probation. 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) (second alteration in original) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 484 (1972)).

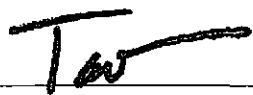
Here, the record reveals the State accused Castro of having contact with his grandchildren in violation of the conditions of his probation.¹ The State presented evidence that Castro admitted to having contact with his grandchildren 20 to 30 different times during his probation, he bought the grandchildren ice cream after attending a church service, he had contact with his grandchildren when his family threw a surprise birthday party for him at his daughter’s home, and some of his contact with his grandchildren was physical. The district court found that Castro had not been credible about his contacts with his grandchildren and minor children and his credibility and evasiveness had been a problem throughout the course of the case. The record demonstrates Castro’s conduct was not as good as required by the conditions of his

¹Special condition 1 stated Castro shall “[n]ot have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.”

probation, and we conclude the court did not abuse its discretion by revoking probation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk