

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM HOWARD BALLARD, IV,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70070

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction entered pursuant to a revocation of probation. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

First, appellant William Ballard, IV, argues the district court erred by relying on hearsay regarding his violation of the travel requirements. Ballard failed to object to the hearsay statements; therefore, he is not entitled to relief absent a demonstration of plain error. *See Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (“[A]n error that is plain from a review of the record does not require reversal unless the defendant demonstrates that the error affected his or her substantial rights, by causing actual prejudice or a miscarriage of justice.” (internal quotation marks omitted)). Ballard failed to demonstrate plain error affecting his substantial rights because the district court did not rely on this violation when revoking Ballard’s probation.

Second, Ballard argues the district court abused its discretion by revoking his probation. Specifically, he claims he was allowed, under the terms of his probation, to use marijuana if he had a medical marijuana card, he was actively seeking a medical marijuana card at the time of the


violations, and he had a letter from a doctor recommending he be approved for a medical marijuana card.

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 district court concluded Ballard used marijuana in direct violation of what Ballard was told when he was put on probation. He did not have a valid medical marijuana card and tested positive several times while on probation. We conclude the district court did not abuse its discretion by revoking probation because sufficient evidence was presented that Ballard's conduct was not as good as required by the conditions of his probation. Accordingly, we

ORDER the amended judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Carolyn Ellsworth, District Judge
The Law Office of Dan M. Winder, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk