


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAY ALLEN WHARFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72186

FILED

JAN 09 2018

ELIZABETH A. BROWN
CLERK OF THE SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Ray Allen Wharff appeals from a judgment of conviction entered pursuant to a guilty plea of possession of a controlled substance. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

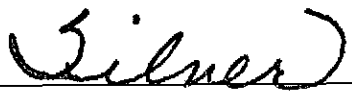
Wharff argues the district court abused its discretion at the sentencing hearing when it imposed improper conditions on Wharff's probation. The district court barred possession or consumption of alcohol or marijuana and barred entry into an establishment where alcohol is the primary source of revenue, and Wharff asserts those conditions were improper because there were no indications he had a problem with alcohol or marijuana. Wharff also appears to assert the district court improperly ordered him to undergo testing for use of alcohol and controlled substances.


We review a district court's imposition of a condition of probation for an abuse of discretion. *Igbinovia v. State*, 111 Nev. 699, 707, 895 P.2d 1304, 1309 (1995). NRS 176A.400(1)(c)(4) permits the district court to impose "any reasonable conditions" that prohibit a probationer from "engaging in specific conduct that may be harmful to the probationer's own health, safety or welfare." Further, NRS 176A.420(1) permits the district

court to order “tests to determine whether the probationer is using any controlled substance.”

The record demonstrates the presentence investigation report contained Wharff’s statement regarding his use of alcohol, marijuana, and other controlled substances and Wharff also reported “alcohol and narcotics are problematic in his life.” Given the information contained in the presentence investigation report regarding Wharff’s problems with alcohol and controlled substances, Wharff did not demonstrate the district court abused its discretion when it imposed probation conditions aiming to help Wharff avoid their use. *See Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005) (“An abuse of discretion occurs if the district court’s decision is arbitrary or capricious or if it exceeds the bounds of law or reason.” (quotation marks omitted)). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jim C. Shirley, District Judge
Kyle B. Swanson
Belanger & Plimpton
Attorney General/Carson City
Pershing County District Attorney
Pershing County Clerk