

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN EDWARD AROZ, SR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71861

LARRY JAMES POLLOCK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73146

**FILED**

APR 27 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Docket No. 71861 is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to possess more than one ounce of marijuana. Docket No. 73146 is an appeal from a judgment of conviction, pursuant to a guilty plea, of violation of a stalking, aggravated stalking or harassment order. Sixth Judicial District Court, Humboldt County; Steven Elliott, Sr. Judge, and Michael Montero, Judge.

After appellants Jonathan Edward Aroz, Sr. and Larry James Pollock pleaded guilty, the district court entered judgments of conviction, suspending their prison sentences and placing them on probation. Pursuant to the terms of appellants' probation, appellants were required to completely abstain from the use, consumption, purchase or possession of controlled substances, including any form of marijuana. Appellants consented, without any objection, to the special conditions of their probation that they now challenge on appeal.

Appellants argue that the district court abused its discretion in prohibiting them from possessing and using medical marijuana as conditions of their probation.<sup>1</sup> This court reviews the district court's imposed conditions of probation for an abuse of discretion. *See Miller v. State*, 113 Nev. 722, 725, 941 P.2d 456, 458 (1997).

Review of the record reveals that appellants failed to present any evidence below to show that they were valid medical marijuana cardholders in Nevada or any other state. Moreover, in order to avoid serving their prison sentences, appellants consented to all conditions of their probation by not objecting to the terms at sentencing, and appellants have failed to demonstrate plain error. *See Himmage v. State*, 88 Nev. 296, 299, 496 P.2d 763, 765 (1972) ("If the defendant considers the conditions of probation more harsh than the sentence the court would otherwise impose, he has the right to refuse probation and undergo the sentence." (internal quotation marks omitted)); *see also Miller*, 113 Nev. at 724, 941 P.2d at 457 ("Failure to raise a claim below generally bars its consideration on appeal, but this rule is relaxed in cases involving plain error or constitutional issues."). Therefore, we conclude that appellants have not shown a basis upon which to reverse the district court's judgments, and thus, there can be no abuse of discretion. Finally, without a record showing that appellants could legally possess or use medical marijuana in Nevada at the time of sentencing, we need not consider the merits of appellants' contentions,

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<sup>1</sup>We reject the State's argument in response that Aroz filed his direct appeal in violation of NRS 177.015(4) and that it was improper for him to raise claims in the fast track statement and subsequent opening brief that were not included in the case appeal statement.

including the additional issues appellants indirectly raise.<sup>2</sup> Based on the foregoing, we

ORDER the judgments of conviction AFFIRMED.

Douglas, C.J.  
Douglas

Cherry, J.  
Cherry

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

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<sup>2</sup>In particular, Aroz argues that the district court erred by requiring him to participate in drug court, and Pollock argues that the district court cannot vest a probation officer with unilateral authority to approve or disapprove a probationer's use of a prescribed narcotic.

cc: Chief Judge, The Sixth Judicial District Court  
Hon. Steven Elliott, Senior Judge  
Humboldt County District Attorney  
Humboldt County Public Defender  
Attorney General/Carson City  
Washoe County Alternate Public Defender  
Humboldt County Clerk