

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

INDIKA ADAIRA LAZARRE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74747-COA

FILED

MAR 14 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Indika Adaira Lazarre appeals from a district court order revoking probation. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Lazarre argues the district court improperly considered unverified facts at the probation revocation hearing. Specifically, Lazarre contends the district court based its decision to revoke her probation upon unauthenticated messages recovered from a cell phone. Lazarre also argued the district court improperly discounted Lazarre's explanation for missing a meeting with her probation officer.

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) (internal quotation marks and brackets omitted); *see also* NRS 47.020(3)(c) (providing title 4 of the NRS does not apply to proceedings granting or revoking probation).

At the revocation hearing, Lazarre's probation officer testified he asked to review the information on Lazarre's phone and she unlocked it in order for him to do so. The officer testified he saw a Facebook application and that the account contained Lazarre's name and picture. He opened messages and discovered a conversation that appeared to him to be concerning a drug sale and a visit to California. The officer testified he questioned Lazarre about the conversation and she acknowledged that she was a middle person in the drug sale. A digital investigator testified that he had reviewed the phone's contents and made documentary exhibits depicting the conversations concerning drug sales made with the Facebook account. Lazarre objected to admission of this information, but the district court overruled the objection, finding the evidence from the phone and the Facebook account were sufficiently authenticated. Given this record, we conclude the district court properly found the messages were authenticated. *See Rodriguez v. State*, 128 Nev. 155, 162, 273 P.3d 845, 849 (2012).

After presentation of this evidence, the district court concluded Lazarre had violated her probation by being involved with the sale of controlled substances. The district court did not make a finding concerning Lazarre's drug tests. The district court also concluded Lazarre's testimony was not credible and that she refused to take responsibility for her actions. The district court found Lazarre's conduct was not as good as required by the conditions of her probation and revoked her probation. *See Lewis*, 90 Nev. at 438, 529 P.2d at 797. Based on the record before this court, we

conclude the district court did not abuse its discretion by revoking Lazarre's probation.¹ Accordingly, we

ORDER the order revoking probation AFFIRMED.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. Douglas W. Herndon, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Lazarre also appears to argue the district court improperly admitted testimony concerning unverified drug-test results, but acknowledges the district court did not state it was using those results as a basis for the revocation of her probation. As Lazarre's revocation was not based upon this evidence, we conclude Lazarre has not demonstrated she is entitled to relief.