

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLINT DAVID ROWE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68625

**FILED**

**MAY 17 2016**

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 and an amended judgment of conviction. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

First, appellant Clint Rowe claims he was denied minimum due process protections during his probation revocation proceedings because he was held without a preliminary inquiry. Rowe did not preserve this claim for appellate review and we conclude he has not demonstrated plain error because the record reveals he was afforded a full and fair formal revocation hearing, he was represented by counsel, and he was given a meaningful opportunity to respond to the violation report and to present witnesses on his behalf. *See* NRS 178.602; *Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (discussing plain-error review); *see generally Collins v. Turner*, 599 F.2d 657, 658 (5th Cir. 1979) (denying relief for failure to conduct a preliminary inquiry because the final revocation hearing was adequate in all respects); *United States v. Companion*, 545 F.2d 308, 313 (2d Cir. 1976) (same).

Second, Rowe claims he was denied minimum due process protections during his probation revocation proceedings because he was unable to confront and question the author of the probation violation

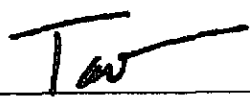
report. Rowe did not preserve this claim for appellate review and we conclude he has not demonstrated plain error because the record reveals he stipulated to the probation violations and he chose not to confront and question Officer Eric Chandler despite the fact Chandler was present during the formal revocation hearing and available for examination. See NRS 178.602; *Valdez*, 124 Nev. at 1190, 196 P.3d at 477; see generally *Anaya v. State*, 96 Nev. 119, 123-25, 606 P.2d 156, 158-160 (1980) (discussing a probationer's due process right to confront and question his accusers).

Third, Rowe claims the conditions placed on his probation were unconstitutional because they were conflicting in nature and application. We conclude Rowe waived this claim by failing to raise it in a direct appeal from the judgment of conviction. See *United States v. Stine*, 646 F.2d 839, 846 (3d Cir. 1981) (noting challenges to the constitutionality of probation conditions must be raised on direct appeal); *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (“[C]laims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings.”), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-23 (1999).

Having concluded Rowe is not entitled to relief, we

ORDER the order revoking probation and the amended judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Valerie Adair, District Judge  
Pitaro & Fumo, Chtd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk