

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH GLYN COSSMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77140-COA

FILED

FEB 19 2020

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

ORDER OF AFFIRMANCE

Joseph Glyn Cossman appeals from a district court's order for revocation of probation and amended judgment of conviction. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Cossman claims the district court abused its discretion by revoking his probation because he had no prior criminal history, his probation violations were the result of a relapse in his drug use, and he should have been given an opportunity to proceed on probation in an inpatient drug treatment program.

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 be merely 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.*

Cossman stipulated to violating the conditions of his probation by testing positive for methamphetamine use. Based on this stipulation, we conclude the district court could reasonably find that Cossman's conduct was not as good as required by the conditions of his probation, and therefore,

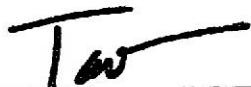
it did not abuse its discretion by revoking his probation. *See McNallen v. State*, 91 Nev. 592, 540 P.2d 121 (1975) (affirming revocation of probation where probationer did not refute violation).

Cossman also claims that he received ineffective assistance of counsel because he relied upon counsel's advice to stipulate to the probation violations, counsel did not object when the prosecution informed the district court that his drug treatment through the family court was unsuccessful, and counsel did not give him an opportunity to enter documents into the record. We decline to consider these claims because they were not explored in an evidentiary hearing and Cossman has not demonstrated that an evidentiary hearing would be needless. *See generally Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006) ("This court has repeatedly declined to consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless.").

Having concluded that Cossman is not entitled to relief, we

ORDER the district court's order for revocation of probation and amended judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Law Office of Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk