

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER ANCELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37851

FILED

JUL 31 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richard
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking appellant's probation.

On June 24, 1998, the district court convicted appellant, pursuant to a guilty plea, of one count of uttering a forged instrument and sentenced appellant to serve 12 to 32 months in prison. The district court suspended execution of the sentence and placed appellant on probation for an indeterminate period of time not to exceed 3 years. Following a hearing, the district court revoked appellant's probation on April 6, 2001.

Appellant contends that the district court abused its discretion by revoking his probation rather than taking some other action such as reinstating appellant to probation, placing him on house arrest, placing him in a treatment center, or dishonorably discharging him from probation. We disagree.

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The decision to revoke a defendant's probation is within the trial court's sound discretion and this court will not disturb that decision absent "a clear showing of abuse of that discretion."¹ A trial court may exercise its broad discretionary powers and revoke a defendant's probation where "[t]he evidence and facts . . . reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation."²

The instant revocation proceeding was initiated after appellant left the Salvation Army program, went to San Francisco and became addicted to heroin. That conduct alone was sufficient to warrant revocation of appellant's probation. But the violation report also indicates that appellant complied with none of the special conditions of his probation. Moreover, appellant appears to have never conducted himself as well as required by the conditions of his probation. The State twice had initiated revocation proceedings against appellant prior to the instant one. On both prior occasions, appellant clearly had violated the conditions of his probation. The district court nonetheless reinstated appellant to probation each time with additional conditions for treatment of his addictions; each time appellant absconded from the treatment program and left the state. Thus, when

¹Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974).

²Id.

appellant failed to comply for a third time, the district court concluded that revocation was warranted. We see no clear abuse of discretion in that decision.

Having considered appellant's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

Young J.
Young
Leavitt J.
Leavitt
Becker J.
Becker

cc: Hon. Peter I. Breen, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk