IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD WOODROW ANDERSON, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38051

FILED

OCT 11 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking appellant's probation. On June 8, 2000, appellant was convicted, pursuant to a guilty plea, of one count of nonsupport of minor children for a period exceeding one year. The district court sentenced appellant to a prison term of 24 to 60 months, suspended execution of the sentence, and then placed appellant on probation for a period not to exceed 54 months. The district court further ordered appellant to pay $82,658.08 in restitution.

After conducting a hearing, the district court revoked appellant's probation, finding that he had failed to make any of the $750.00 monthly payments required by his restitution agreement with the Division of Parole and Probation.

Appellant contends that the district court abused its discretion in revoking his probation because: (1) he was already paying the victim $750.00 a month in restitution from his veteran's disability check; and (2) he had no present ability to pay an additional $750.00 because he was one-hundred-percent disabled and living on approximately $1400.00 a month in veteran's disability benefits. We conclude that the district court did not abuse its discretion in revoking appellant's probation.

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.[1] Evidence supporting a decision to revoke probation must merely

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

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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.[2]

In the instant case, we conclude that the district court did not err in finding that appellant's conduct was not as good as required. Specifically, there was sufficient evidence in support of the district court's finding that appellant had the present ability to work, including the fact that he had actually worked for six weeks at a restaurant from November 13, 2000, to January 31, 2001. There was also sufficient evidence in support of the district court's finding that the $750.00 payments appellant had made to the victim were not made as restitution, but rather were made to pay an existing child support obligation imposed by the Veteran's Administration division of the federal government. Particularly, a representative from the Veteran's Administration testified that this money was deducted from appellant's disability check to pay an existing child support obligation for appellant's two children, who were full-time college students, and was not paid as restitution.

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

ORDER the judgment of the district court AFFIRMED.

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

cc: Hon. Steven P. Elliott, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

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[2]Id.