IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MAYSEN MELTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89194-COA

FILED

MAR 11 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Maysen Melton appeals from an amended judgment of conviction revoking probation and imposing the original sentence. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

Melton argues there was insufficient evidence produced at the revocation hearing to establish he violated the terms of his 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. *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.*

The State alleged Melton violated the terms of his probation by possessing a weapon and a second cell phone. At the probation revocation hearing, a probation officer testified he found a knife in Melton's dresser during a home contact.[1] The officer also testified that, during the same

[1]Melton fails to provide the standard conditions of his probation for our review on appeal, and we presume they support the district court's decision to revoke his probation. *See Cuzze v. Univ. & Cmty. Coll. Sys. of*

home contact, he found Melton in possession of both his own cell phone and a second cell phone purportedly belonging to Melton's boss. As a special condition of his probation, Melton was "[o]nly allowed to have one cell phone at any given time" and was not allowed to use anyone else's cell phone. In light of the probation officer's testimony, the district court could reasonably find that Melton's conduct was not as good as required by the conditions of his probation.[2] Therefore, we conclude the district court did not abuse its discretion by revoking Melton's probation.

Melton also argues the district court erred by not granting him a continuance to present evidence from Melton's boss regarding the second cell phone. Melton appeared to argue that the boss would testify he gave

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Nev., 123 Nev. 598, 603, 172 P.3d, 131, 135 (2007); *see also* NRAP 3C(e)(2)(C); NRAP 30(b)(3); *Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) ("The burden to make a proper appellate record rests on appellant.").

[2]Melton argues that possession of two cell phones is a technical violation of his probation warranting the imposition of graduated sanctions before revocation. Melton's offenses occurred prior to the effective date of the 2019 legislative amendments providing for the use of graduated sanctions when a probationer commits technical violations of the conditions of his probation, *see* 2019 Nev. Stat., ch. 633, § 35, at 4401-03; § 137, at 4488, and the Legislature gave no indication that it intended the amendments to apply retroactively. Thus, Melton fails to demonstrate the statutory amendments apply to him. *See United States v. Brown*, 59 F.3d 102, 104 (9th Cir. 1995) ("Revocation of parole or probation is regarded as reinstatement of the sentence for the underlying crime, not as punishment for the conduct leading to the revocation."); *Johnson v. United States*, 529 U.S. 694, 701 (2000) ("[P]ostrevocation penalties relate to the original offense."); *State v. Second Jud. Dist. Ct. (Pullin)*, 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008) ("It is well established that under Nevada law, the proper penalty is the penalty in effect at the time of the commission of the offense and not the penalty in effect at the time of sentencing.").

Melton the phone so Melton could respond to calls from clients of the boss's business. The special conditions of Melton's probation prohibited him from possessing more than one cell phone at any given time and from using another person's cell phone, regardless of the reason for the phone being in his possession or for the use. Thus, we conclude the district court did not abuse its discretion by denying Melton's request for a continuance. *Cf. Higgs v. State*, 126 Nev. 1, 9, 222 P.3d 648, 653 (2010) (providing that "much weight is given to the reasons offered to the trial judge at the time the request for a continuance is made" and holding that where a "defendant fails to demonstrate that he was prejudiced by the denial of the continuance, then the district court's decision to deny the continuance is not an abuse of discretion"). For these reasons, we

ORDER the amended judgment of conviction AFFIRMED.[3]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

[3]Insofar as Melton raises other arguments on appeal that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. Tara D. Clark Newberry, District Judge
Wooldridge Law, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk