

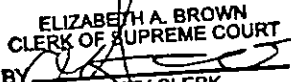
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE CANIZALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89810-COA

FILED

JUN 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jose Canizales appeals from a district court order revoking probation and second amended judgment of conviction. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

Canizales argues the district court erred in concluding he absconded from probation. He asserts that, at the most, he avoided contact with the Division of Parole and Probation (Division) for 46 days before his arrest, which would only be a technical violation.

Revocation of probation is within "the trial court's broad discretionary power and such an action will not be disturbed in the absence of a clear showing of abuse of that discretion." *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.* If graduated sanctions have not been exhausted, the evidence must reasonably satisfy the judge that the defendant committed a non-technical violation of probation, such as absconding, in order to warrant revocation. See NRS 176A.510(8)(a); NRS 176A.630(1)(a); *Lewis*, 90 Nev. at 438, 529 P.2d at 797; see also *Anaya v.*


State, 96 Nev. 119, 122, 606 P.2d 156, 157 (1980) (“Due process requires, at a minimum, that a revocation be based upon verified facts” (internal quotation marks omitted)).


There was sufficient evidence to support the conclusion that Canizales actively avoided supervision for 60 continuous days.¹ *See* NRS 176A.510(8)(a) (defining “absconding” as “actively avoiding supervision by making [one’s] whereabouts unknown to the Division for a continuous period of 60 days or more”). Canizales’ argument concedes the fact that he had not contacted the Division since September 17, 2024, when he informed the Division he had entered a treatment program. Over 60 days elapsed between Canizales’ failure to contact the Division on September 20, 2024, when he was dismissed from that program, and his arrest on November 23, 2024. Canizales insists the State could not prove he actively avoided supervision before October 8, 2024, when Canizales ran from a probation officer who had been attempting to contact him. However, given Canizales’ history of failing to report to the Division and his pattern of promptly leaving treatment programs after reporting his enrollment, the district court could reasonably infer Canizales’ evasion of his probation officer on

¹The order for revocation of probation and second amended judgment of conviction does not indicate the basis for revocation. However, the transcript of the revocation hearing clearly establishes that the district court found Canizales to have absconded from supervision. *See United States v. Sesma-Hernandez*, 253 F.3d 403, 405-06 (9th Cir. 2001) (recognizing that oral findings in a transcribed record are sufficient to evaluate basis for revocation of supervised release); *see also Matos v. State*, 110 Nev. 834, 837, 878 P.2d 288, 290 (1994) (“On appeal, this court may imply findings of fact and conclusions of law if the record clearly supports the lower court’s ruling.”).

October 8, 2024, was not the initiation of his efforts to avoid supervision, but the continuation of them. Accordingly, we

ORDER the order for revocation of probation and second amended judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Danielle K. Pieper, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk