

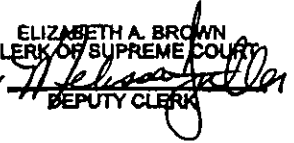
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PATRICK MICHAEL ZOZAYA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89096-COA

**FILED**

**SEP 16 2025**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Patrick Michael Zozaya appeals from a district court order revoking probation and second amended judgment of conviction. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Zozaya argues the district court abused its discretion in revoking his probation. In support of his argument, Zozaya claims that (1) the State stipulated to his conduct being a misdemeanor amounting to a technical violation of probation; (2) the district court acted arbitrarily and capriciously in revoking his probation because it had previously found that his conduct was a technical violation, for which his probation could not be revoked; (3) the district court erred in allowing the State to argue he violated probation at a second revocation hearing because the claim was barred by the doctrines of issue preclusion and claim preclusion; and (4) reversal is warranted pursuant to the supreme court's recent decision in *Sheridan v. State*, 141 Nev., Adv. Op. 22, 567 P.3d 345 (Apr. 24, 2025).

The record reflects the following facts. Zozaya pleaded guilty to attempted grand larceny and conspiracy to commit larceny and was sentenced to a suspended prison term of 19 to 48 months and a consecutive suspended jail term of 364 days with a probationary period not to exceed

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two years. Approximately two months after sentencing, probation officers conducted a home visit because Zozaya had failed to maintain contact with the Division of Parole and Probation (Division). During a search of Zozaya's residence, probation officers discovered, among other things, small quantities of cocaine and methamphetamine, eight credit/debit cards belonging to other individuals, multiple documents containing personal identifying information, a Massachusetts driver's license belonging to another person, and a master United States Postal Service (USPS) key. The probation officers booked Zozaya into custody on charges related to possession of cocaine and methamphetamine. The Division submitted a violation report to the district court recommending revocation based on the drug possession charges and technical violations of probation.

At the first revocation hearing, Zozaya and the State stipulated to treat the conduct outlined in the violation report as a technical violation and reinstate probation. Although the Division briefly noted at a bench conference that Zozaya was likely going to be charged in connection with his possession of the credit/debit cards, documents, and personal identifying information belonging to other people, the record of the first revocation hearing reflects that the parties and the district court solely discussed Zozaya's alleged possession of cocaine and methamphetamine and his failure to maintain contact with the Division in resolving the Division's request to revoke probation. The district court reinstated probation and entered a first amended judgment conviction.

Shortly after the district court reinstated Zozaya's probation, the Nevada State Police arrested Zozaya on felony charges of obtaining or using personal identifying information of another and possession, sale, or transfer of documents or personal identifying information of another; these

charges stemmed from the evidence the probation officers found during their search of Zozaya's residence. The Division filed a new violation report recommending revocation based on the new felony charges. Zozaya subsequently pleaded guilty to a misdemeanor charge of possession of stolen property in Henderson Justice Court. At the contested revocation hearing, the district court heard sufficient evidence to establish a non-technical violation pursuant to NRS 176A.510(8)(c)(1)(I). The district court revoked Zozaya's probation and entered a second judgment of conviction.

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). An order revoking probation need not be supported by evidence beyond a reasonable doubt. *Id.* Rather, "[t]he evidence and facts must reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation." *Id.*; 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)).

Probation may be revoked without graduated sanctions if the probationer commits a non-technical violation of probation, such as the commission of a new felony or gross misdemeanor. See NRS 176A.510(8)(c)(1)(I); NRS 176A.630(1). While Zozaya may have ultimately pleaded guilty to a misdemeanor charge of possession of stolen property in connection with his possession of the credit/debit cards, personal identifying information, and USPS master key, the plain language of NRS 176A.630(1) provides that a sentencing court may revoke probation if it "finds that the probationer *committed* a violation of a condition of probation that is not a

technical violation.” (emphasis added); *see also* NRS 176A.510(8)(c)(1)(I) (providing that the *commission* of a new felony or gross misdemeanor is a non-technical violation). Thus, the fact that Zozaya pleaded guilty to a misdemeanor pursuant to negotiations with the State did not amount to the State “stipulating” Zozaya’s conduct was a technical violation, nor did it prohibit the State from seeking revocation.

Zozaya’s argument that the district court acted arbitrarily and capriciously in revoking his probation because it had previously found that his conduct was a technical violation also fails. The record of the first revocation hearing reflects that the district court was only presented with information relevant to Zozaya’s possession of cocaine and methamphetamine and his failure to maintain contact with the Division.<sup>1</sup>

As for Zozaya’s argument that the doctrine of claim preclusion barred the State from proceeding with a second revocation hearing based on his possession of personal identifying information, credit/debit cards belonging to other people, and a USPS master key, Zozaya provides no authority for the proposition that Nevada has recognized the doctrine’s availability in the criminal context. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”). Furthermore, the doctrine of claim preclusion is

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<sup>1</sup>Zozaya additionally argues the district court acted arbitrarily and capriciously and abused its discretion in revoking his probation “solely on the basis that [Zozaya] came before the court on a second violation.” The record of the contested revocation hearing, however, does not indicate the district court explicitly based its decision to revoke Zozaya’s probation on the fact that it was his second revocation hearing, as the district court heard evidence and argument regarding Zozaya’s commission of a new felony offense.

ill-fitted in the criminal context given the State's charging discretion. *Cf. Bordenkircher v. Hayes*, 434 U.S. 357, 364 (1978) ("In our system, so long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file . . . generally rests entirely in his discretion.")

The doctrine of issue preclusion also did not bar the State from proceeding with a second revocation hearing. Issue preclusion in criminal proceedings "is an integral part of the protection against double jeopardy guaranteed by the Fifth and Fourteenth Amendments" which bars re-litigation of an issue of ultimate fact that has been determined by a valid and final judgment. *Gonzalez v. Eighth Jud. Dist. Ct.*, 129 Nev. 215, 218, 298 P.3d 448, 450 (2013). The first revocation proceeding neither addressed nor resolved the State's claim that Zozaya's possession of personal identifying information, credit/debit cards belonging to other people, and a USPS master key constituted a nontechnical violation of probation.

Zozaya additionally argues that reversal is required pursuant to the supreme court's recent decision in *Sheridan*, 141 Nev., Adv. Op. 22, 567 P.3d at 348, because neither the State nor the district court identified which felony statute provided the basis for revoking Zozaya's probation. However, it is clear from the second violation report and the evidence discussed at the contested revocation hearing that the crime being discussed was a violation of NRS 205.463, which makes obtaining or possessing personal identifying information of another person to harm or impersonate the person or for other unlawful purposes a felony offense. Indeed, Zozaya's counsel noted at the contested revocation that Zozaya had been charged with a violation of NRS 205.463. Given these facts, we cannot

say that the district court's failure to identify the relevant felony statute warrants relief in this case. Accordingly, we

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

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Susan Johnson, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk