

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENJUAN MCDANIEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87927-COA

FILED

JUN 05 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Kenjuan McDaniel appeals from an order for revocation of probation and amended judgment of conviction. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

McDaniel claims the district court erred by revoking his probation based on criminal conduct he allegedly engaged in before the district court granted him 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); *accord Sheridan v. State*, 141 Nev., Adv. Op. 22, 567 P.3d 345, 347 (2025).

McDaniel was convicted, pursuant to a guilty plea, of ownership or possession of a firearm by a prohibited person. Consistent with the guilty plea agreement, the district court sentenced McDaniel to prison for 28 to 72 months, suspended that sentence, and placed McDaniel on probation for an indeterminate period not to exceed 36 months. The judgment of conviction was entered on February 16, 2023. On September 5, 2023, the Division of Parole and Probation (Division) filed a nontechnical violation report recommending the district court revoke McDaniel's probation because he

had recently been arrested in connection with a homicide that occurred on September 18, 2021, before the judgment of conviction was entered. In making its recommendation to revoke McDaniel, the Division cited *Trueblood Longknife v. United States*, in which the United States Court of Appeals for the Ninth Circuit affirmed a district court's decision to revoke the probation of a defendant who had concealed prior criminal activity from the district court during sentencing. 381 F.2d 17, 20 (9th Cir. 1967).

Following a revocation hearing, the district court entered an order revoking McDaniel's probation and an amended judgment of conviction reinstating McDaniel's underlying sentence of 28 to 72 months in prison. In its order, the district court explicitly relied on *Trueblood Longknife* as the basis for revoking McDaniel's probation:

The COURT FINDS that under *Trueblood Longknife v. U.S.*, 381 F.2d 17 (1967), had this Court [] known that the Defendant was the suspect in a murder investigation, this Court would not have granted the Defendant the instant opportunity at probation. Further, the said murder investigation has led to the Defendant's arrest, has gone to a preliminary hearing, and a justice of the peace has made a finding of probable cause against the Defendant in that case. As such, this Court is reasonably satisfied that the Defendant would not have been given a probationary grant in the instant case, if the Court would have been aware of the aforementioned information.

McDaniel asserts the district court's decision to revoke his probation based on his alleged pre-probation conduct was improper under the plain language of the statutes governing revocation of probation. Specifically, McDaniel argues that the plain language of NRS

176A.510(8)(c)(1)(I)¹ requires a probationer to have committed a felony or gross misdemeanor *after* being placed on probation before being revoked for a nontechnical violation. McDaniel argues that, because the homicide he allegedly participated in occurred over a year prior to the district court’s grant of probation, it is not a “new felony” under the plain language of the statute. The State responds that NRS 176A.510 only applies to technical violations of the conditions of probation and does not address or define what constitutes a nontechnical violation.

A district court may revoke probation upon a first violation and without graduated sanctions if it finds the probationer “committed” a nontechnical violation of probation. NRS 176A.630(1). As the supreme court noted in *Sheridan*, NRS 176A.510 “provides for the imposition of graduated sanctions for technical probation violations and defines nontechnical violations.” 141 Nev., Adv. Op. 22, 567 P.3d at 347. Pertinent here, those enumerated nontechnical violations include “[t]he commission of a . . . [n]ew felony or gross misdemeanor.” NRS 176A.510(8)(c)(1)(I) (emphasis added).

The meaning of “committed,” “commission,” and “new” as those terms are used in NRS 176A.630(1) and NRS 176A.510(8)(c)(1) is an issue of statutory interpretation. “Statutory interpretation is a question of law

¹Both McDaniel and the State cite to the current version of NRS 176A.510 in making their arguments. However, the current version of the statute became effective on July 1, 2023—approximately five months after the entry of the judgment of conviction in this matter. *See* 2023 Nev. Stat., ch. 250, § 4, at 1649-50. Nevertheless, because the 2023 amendments did not alter the provision designating the commission of a new felony or gross misdemeanor as a nontechnical violation, we analyze McDaniel’s claim pursuant to the current version of the statute. *Compare id.* and 2021 Nev. Stat., ch. 520, § 10, at 3456-57.

subject to de novo review.” *Williams v. State, Dep’t of Corr.*, 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017) (quotation marks omitted). “The goal of statutory interpretation is to give effect to the Legislature’s intent.” *Bolden v. State*, 139 Nev. 448, 450, 538 P.3d 1161, 1165 (Ct. App. 2023) (quotation marks omitted). “When interpreting a statute, this court will give the statute its plain meaning and will examine the statute as a whole without rendering words or phrases superfluous or rendering a provision nugatory.” *Haney v. State*, 124 Nev. 408, 411-12, 185 P.3d 350, 353 (2008).

Based on the plain language of NRS 176A.630(1) and NRS 176A.510(8)(c)(1)(I), “committed” and “commission of a . . . [n]ew felony or gross misdemeanor” means that the probationer performed or perpetrated a felony or gross misdemeanor *after* being placed on probation. See *Commit*, Black’s Law Dictionary (12th ed. 2024) (defining “commit,” in pertinent part, as “[t]o perpetrate (a crime)”); *Commission*, Black’s Law Dictionary (12th ed. 2024) (defining “commission,” in pertinent part, as “[t]he act of doing or perpetrating (as a crime)”); *New*, Black’s Law Dictionary (12th ed. 2024) (defining “new” in pertinent part as “recently come into being”). Accordingly, we conclude the plain language of NRS 176A.630(1) and NRS 176A.510(8)(c)(1)(I) precludes district courts from revoking probation based on allegations that the probationer committed a felony or gross misdemeanor before being placed on probation. We therefore conclude the district court abused its discretion by revoking McDaniel’s probation based on a felony he allegedly committed prior to the start of his term of probation.

McDaniel also claims the district court abused its discretion in relying on *Trueblood Longknife* to revoke his probation because that case was decided under a different statutory scheme; to the extent *Trueblood Longknife* could be used as a basis to revoke probation, McDaniel further

argues that it only applies in those cases where a defendant obtained probation through fraudulent concealment. The State responds that the district court's reliance on *Trueblood Longknife* was not limited by NRS 176A.510 because the case "did not address a violation of the conditions of probation, but rather the revocation of probation that should not have been granted" had the sentencing court been aware of additional criminal conduct predating the granting of probation. The State further asserts that *Trueblood Longknife* gives district courts the discretion to revoke probation based on felonies or gross misdemeanors a defendant committed before being placed on probation even when there is no allegation the defendant concealed information about such offenses at the time of sentencing.

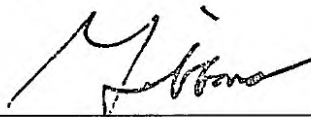
We conclude that *Trueblood Longknife* is incompatible with the statutory scheme governing probation in Nevada. As the Ninth Circuit concluded in a later case addressing a similar revocation of probation for pre-probation conduct, 18 U.S.C. § 3565—the federal statute governing revocation of probation—"explicitly states that if a 'defendant violates a condition of probation *at any time prior* to the expiration or termination of the term of probation,' the court may revoke probation." *United States v. Daly*, 839 F.2d 598, 601 (9th Cir. 1988). Based on this broad statutory language, the Ninth Circuit concluded that "a district court may revoke probation for a pre-probation offense." *Id.* (citing *United States v. Yancey*, 827 F.2d 83, 87-88 (7th Cir. 1987)); *see also United States v. Johnson*, 892 F.2d 369, 370-71 (4th Cir. 1989) (compiling cases in which federal appellate courts have concluded that "the district court's power over a probationer includes the power to revoke probation for acts which occur prior to the probationary period"); *but see United States v. Twitty*, 44 F.3d 410, 413 (6th Cir. 1995) (holding that probation may not be revoked "for conduct which

occurs prior to the date on which the defendant was sentenced to probation”).

As discussed above, the plain language of NRS 176A.510(8)(c)(1)(I) provides that a person’s probation may be revoked only where the person committed a new felony or gross misdemeanor during the term of probation. This temporal limitation on nontechnical violations that a district court may rely upon to revoke probation therefore precludes retrospective consideration of alleged criminal conduct that occurred before a person began a term of probation. Accordingly, we conclude the district court abused its discretion by relying on *Trueblood Longknife* to revoke McDaniel’s probation based on alleged pre-probation conduct² and we

ORDER the revocation of probation and amended judgment of conviction REVERSED and REMAND this matter to the district court for further proceedings consistent with this order.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

²On appeal, McDaniel raises two additional claims that the district court abused its discretion in revoking his probation. In light of our disposition, we need not address McDaniel’s other assignments of error.

cc: Hon. Tierra Danielle Jones, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk