



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROSEMARY LANIGAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91849-COA

ORDER OF AFFIRMANCE

Rosemary Lanigan appeals from a district court order revoking probation and imposing sentence. Seventh Judicial District Court, Lincoln County; Hon. Steve L. Dobrescu, Judge.

Lanigan argues the district court abused its discretion by revoking her probation and imposing her previously suspended prison sentence. In particular, Lanigan contends the district court improperly revoked her probation based on her termination from drug court. Lanigan avers that it is unclear from the plain language of NRS 176A.630(8) that termination from drug court, a specialty court program, is a nontechnical violation of the conditions of her probation and as such, the exhaustion of graduated sanctions was required prior to the revocation of her 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). A district court may revoke probation without graduated sanctions if it “finds that the probationer committed a violation of a condition of probation that is not a technical violation.” NRS 176A.630(1)(a); see *Lewis*, 90 Nev. at 438, 529 P.2d at 797 (providing that 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).

Here, the Division of Parole and Probation alleged in a nontechnical probation violation report that Lanigan violated the terms of her probation by being terminated from drug court. Lanigan thereafter admitted to these allegations, and the district court revoked her probation. NRS 176A.510(8)(c), which defines “technical violation,” provides that “[t]he term does not include termination from a specialty court program.” Based on Lanigan’s admission and the plain language of NRS 176A.510(8)(c), the district court could reasonably conclude that Lanigan’s termination from drug court violated a condition of her probation that was not a technical violation such that it could revoke her probation without the exhaustion of graduated sanctions. Therefore, we conclude Lanigan fails to demonstrate the district court abused its discretion by finding her conduct was not as good as required by the terms of her probation and by revoking probation.

Lanigan also argues the district court erred by denying her request to appoint substitute counsel. Lanigan contends that she requested substitute counsel during an October 10, 2025, hearing in which she was terminated from drug court and that she alleged substitute counsel was warranted because of a conflict of interest and because counsel was ineffective for failing to assist her with appealing her conviction or challenging it via postconviction relief. Lanigan further contends that during the October 10 hearing, the district court instructed her to raise the issue again at a formal probation violation hearing

on October 24, 2025, and that the district court erred by not addressing her request for substitute counsel at the October 24 hearing.¹

Lanigan did not include a copy of the October 10 hearing transcript in the record on appeal. *See* NRAP 30(b)(1) (requiring an appellant to provide “all transcripts that are necessary to” the appellate court’s review of the issues on appeal). “The burden to make a proper appellate record rests on appellant,” *Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980); *accord* NRAP 30(b)(3), and we presume the missing portions of the record support the district court’s decision, *see Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007). Without the relevant transcript, we cannot determine whether Lanigan requested substitute counsel during this hearing and, if she did, what arguments were made in support of her request. We must instead presume that the transcript of the October 10 hearing supports the district court’s resolution of Lanigan’s request for substitute counsel.

Even reaching the merits of Lanigan’s claim, she fails to demonstrate she is entitled to relief. Lanigan was on probation at the time she alleged she requested substitute counsel, which was at the hearing during which she was terminated from drug court. Even assuming such a hearing is akin to a probation revocation hearing, Lanigan did not have an absolute right to counsel. *See Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973). Rather, the need for counsel during probation revocation proceedings is made on a case-by-case basis. *Id.*; *see also Fairchild v. Warden*, 89 Nev. 524, 525, 516 P.2d 106, 107 (1973) (adopting the approach set forth in *Gagnon*). Counsel is constitutionally required if the probationer makes a timely and colorable claim (1) that she did

¹Lanigan did not renew her request for substitute counsel at the hearing held on October 24 and, as Lanigan notes, the district court did not address the issue of substitute counsel at that hearing.

not commit the alleged violation; or (2) “that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present.” *Gagnon*, 411 U.S. at 790.

In her briefing on appeal, Lanigan fails to argue or otherwise demonstrate that she made a colorable claim that she did not commit the alleged violations leading to her termination from drug court and ultimately the revocation of her probation. She likewise fails to argue or otherwise demonstrate that there were justifying or mitigating circumstances which made her termination from drug court or the revocation of her probation inappropriate or that the circumstances were difficult or complex to develop or present. In light of these circumstances, we conclude Lanigan fails to demonstrate she was entitled to counsel during these proceedings, let alone substitute counsel. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


Bulla, C.J.


Gibbons, J.


Westbrook, J.

²In light of our disposition, we need not reach the other arguments raised on appeal as they do not provide a basis for relief.

cc: Hon. Steve L. Dobrescu, District Judge
Attorney General/Carson City
Lincoln County District Attorney
Rosemary Lanigan
Nevada State Public Defender's Office
Seventh District Court Clerk