FILED
11/25/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAIRO OSBALDO PEREZ, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91643-COA

ORDER OF AFFIRMANCE

Jairo Osbaldo Perez, Jr., appeals from a district court order revoking probation filed on October 17, 2025. Second Judicial District Court, Washoe County; Hon. Kathleen Drakulich, Judge.

On appeal, Perez argues the district court abused its discretion by relying on hearsay and suspect evidence to revoke his probation. 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 v. State*, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974) (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). Absconding constitutes a nontechnical violation of probation. *See* NRS 176A.510(8)(c); *see also* NRS 176A.510(8)(a) (defining "absconding"). 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 of that discretion. *Lewis*, 90 Nev. at 438, 529 P.2d at 797.

The admissibility of evidence at a probation revocation hearing is not governed by the statutory rules of evidence, NRS 47.020(3)(c); instead, it is governed by a due process balancing standard, which considers the interests of the parties and the purpose, nature, and quality of the evidence, *Anaya v. State*, 96 Nev. 119, 123-25, 606 P.2d 156, 158-60 (1980). In particular, the district court must balance "the strength of the probationer's interest in confronting and cross-examining the primary sources of the information being used against him against the very practical difficulty of securing the live testimony of actual witnesses to his alleged violation or to his character while on probation." *Id.* at 123, 606 P.2d at 158. Although hearsay is allowed at a probation revocation hearing, the revocation must nonetheless be "based upon verified facts so that the exercise of discretion will be informed by an accurate knowledge of the probationer's behavior." *Id.* at 122-23, 606 P.2d at 157-58 (citation modified).

Perez contends the district court relied on multiple levels of hearsay and inconsistent or uncorroborated information in violation of *Anaya*. We disagree. In this matter, Perez was supervised by Officer Cole Liebherr from approximately December 2024 to June or July 2025, at which time Perez's case was transferred to Officer Taylor Kemp. On August 13, 2025, Officer Kemp filed a nontechnical violation report, alleging that Perez had actively avoided supervision for a period of 60 days or more. Both Officer Liebherr and Officer Kemp testified at Perez's revocation hearing as to the alleged nontechnical violation and both were subject to cross-examination regarding their supervision of Perez.

Officer Liebherr testified that Perez reported to the Division of Parole and Probation (Division) on May 6, 2025, but that his last contact with

Perez was at a May 15, 2025, review hearing. Officer Liebherr testified that he sent Perez a text message on May 29, 2025, informing Perez that he had to report to the Division on June 9, 2025, but that Perez did not report as directed.[1] Officer Liebherr testified that Perez had read receipts activated on his phone and that he received a read receipt with respect to this text message.[2] Thereafter, Officer Liebherr left the Division. Officer Kemp testified that she received some of Officer Liebherr's cases, including Perez's case, but that she did not review Perez's case until August 12, 2025, when she received a notification that Perez had been stopped by law enforcement. Officer Kemp testified that she reviewed Perez's case file, saw that he had not reported since May, and called him. Officer Kemp testified that Perez was hostile toward her and her supervisor, that Perez was ultimately told to report the following day, and that Perez said, "We'll see." Officer Kemp testified that Perez did not report the following day as directed, so she drafted the instant nontechnical violation report.

The due process concerns identified in *Anaya* are not implicated in this matter. In *Anaya*, the State alleged that the defendant had been arrested for driving under the influence and sought to revoke the defendant's probation on that basis. *Id.* at 121, 606 P.2d at 157. At the revocation hearing, the facts

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[1]Although Officer Liebherr could not recall the exact date he told Perez to report, he testified that the reporting date was in June 2025. Officer Kemp also testified that she reviewed the entirety of Perez's case file and that the case notes indicated that Officer Liebherr directed Perez to report on June 9, 2025, and that Perez did not report as directed.

[2]Officer Kemp also testified that the Division's case notes indicated Officer Liebherr had received a read receipt with respect to the May 29 text message.

regarding the defendant's arrest were established through a probation officer's summary of an arrest report. *Id.* at 124-25, 606 P.2d at 159. The arrest report was not introduced into evidence, and the arresting officers did not testify at the hearing, thereby precluding the defendant and any court from testing the accuracy or reliability of the facts contained in the report. *Id.*

Here, the State alleged that Perez had been actively avoiding supervision and sought to revoke Perez's probation for absconding. Unlike in *Anaya*, where the defendant was unable to confront the arresting officers, here, Perez was able to confront his probation officers regarding his contact (or lack thereof) with the Division. Although Officer Kemp testified to information she learned by reviewing case notes written by Officer Liebherr, and those case notes were not introduced at the hearing, Officer Liebherr testified at the revocation hearing and was subject to cross-examination. Moreover, there is no indication that the information contained in the Division's case notes was unreliable.[3] In light of the foregoing, Perez fails to demonstrate that the district court's decision was based on unverified facts in violation of *Anaya*, and

[3]Perez contends that his purported failure to report in June or July is unverified because Officer Kemp testified that the Division transitioned to a new case management system during that time and that it was possible not all data had been migrated over to the new system. No evidence was presented indicating that the Division was in fact missing data regarding Perez's case or that Perez did report to the Division in June or July. Moreover, Officer Kemp testified that Perez spoke with her after his August 14, 2025, review hearing and that Perez admitted to her that he did not report in June, July, or August.

we conclude the district court did not abuse its discretion by revoking Perez's probation.[4] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Hon. Kathleen M. Drakulich, District Judge
Attorney General/Carson City
Sgro & Roger / Reno
Washoe County District Attorney
The Second Judicial District Court of the State of Nevada, in and for the County of Washoe, District Court Clerk

[4]In his reply brief, Perez argues that (1) the district court erroneously determined that failing to report to the Division was sufficient to establish absconding, and (2) the State failed to prove that he actively avoided supervision and made his whereabouts unknown for the statutory period. Perez did not raise these arguments in his opening brief; thus, we decline to consider them. *See LaChance v. State*, 130 Nev. 263, 277 n.7, 321 P.3d 919, 929 n.7 (2014) ("Because the Nevada Rules of Appellate Procedure do not allow litigants to raise new issues for the first time in a reply brief, we decline to consider this argument."); NRAP 28(c).