

IN THE SUPREME COURT OF THE STATE OF NEVADA

LLOYD HUNTSMAN,

No. 38623

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED
JAN 09 2002
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking appellant's probation.

On September 2, 1998, the district court convicted appellant Lloyd Huntsman, pursuant to a guilty plea, of using and/or being under the influence of a controlled substance. The district court sentenced Huntsman to serve 12 to 48 months in prison, suspended execution of the sentence, and placed Huntsman on probation for 24 months.

On September 10, 1998, a probation officer attempted to contact Huntsman at his listed residence. Huntsman was not there. The Division of Parole and Probation eventually determined that it had been at least six months since Huntsman had lived at the address he had provided to the Division. On October 14, 1998, the Division obtained a bench warrant for Huntsman's arrest. Also sometime in October 1998, Huntsman asked his probation officer for permission to travel to Louisiana to be with his son, who was in the hospital, and asked to have his probation and supervision transferred to Louisiana. The probation officer denied both requests. Huntsman then left the State of Nevada. When Huntsman returned to Nevada in late 1999 after his son died, he failed to contact the Division. He was eventually arrested for public intoxication,

02-00190

and was returned to the district court on the previously issued bench warrant.

On September 13, 2001, the district court conducted a probation revocation hearing. Huntsman argued that his failure to comply with the conditions of his probation should be excused because he left town to be with his son and had tried to work something out with his probation officer, who was being unreasonable. Huntsman admitted that he was aware of the bench warrant, but was afraid to turn himself in to authorities because he was suffering seizures as a result of a stroke he had suffered. Huntsman asked to be reinstated to probation. The district commented that it understood why Huntsman went to Louisiana but that the court was concerned because Huntsman had not been living at the address provided to the Division when he was first granted probation and because Huntsman failed to report to the Division upon his return to Nevada. The district court then revoked Huntsman's probation.

Huntsman argues that the district court abused its discretion by revoking his probation. In particular, Huntsman argues that given the circumstances, the district court should have reinstated him to probation to give him an opportunity to comply with "reasonable supervision." We conclude that this contention lacks merit.

The decision to revoke a defendant's probation is within the trial court's sound discretion and this court will not disturb that decision absent "a clear showing of abuse of that discretion."¹ A trial court may exercise its discretionary powers and revoke a defendant's probation where "[t]he evidence and facts . . . reasonably satisfy the judge that the conduct of the probationer has not been as good as required by the conditions of probation."²

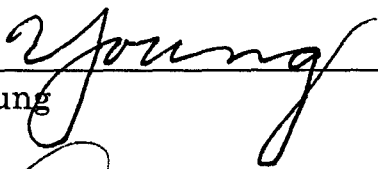
¹Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974).


²Id.


Here, Huntsman's conduct was not as good as that required by the conditions of probation. He was not residing at the address provided to the Division, left the State of Nevada without permission, and failed to maintain any contact with the Division.³ While the district court was sympathetic to Huntsman's situation with his son, we see no clear abuse of discretion in the court's decision to revoke Huntsman's probation.

Having considered Huntsman's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Steven P. Elliott, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

³Cf. id. (affirming revocation of probation where probationer, among other things, "left the state without permission of his probation officer, he changed his residence without permission, [and] failed to report to his probation officer for several months").