

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY JOSEPH MCGRATH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39969

FILED

OCT 08 2002

ORDER OF AFFIRMANCE

WARRIEN W. BROWN
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF CLERK

This is an appeal from an order of the district court revoking appellant Jay Joseph McGrath's probation.

McGrath was convicted, pursuant to a guilty plea, of unauthorized absence from place of classification assignment, a violation of NRS 212.095.¹ The district court sentenced McGrath to serve a prison term of 12-30 months, and ordered him to pay a fine of \$1,500.00; his sentence was suspended and he was placed on a term of probation.

McGrath contends that the district court abused its discretion by revoking his probation. More specifically, McGrath argues that, despite

¹NRS 212.095(1) states: "Any unauthorized absence from the place of assignment by an offender who is on temporary furlough, participating in a work or educational release program or otherwise in a classification assignment under the provisions of chapter 209 of NRS, constitutes an
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his recent conviction for domestic battery, his conduct on probation has otherwise been good. We disagree.

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.² 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.³

In this case, McGrath is unable to demonstrate that the district court abused its discretion. McGrath does not dispute that he violated the terms of his probation by being convicted of domestic battery. Therefore, we conclude that the district court acted within its discretion by revoking McGrath's probation.⁴

... continued

escape from prison which is a category B felony and the offender shall be punished as provided in NRS 212.090.”

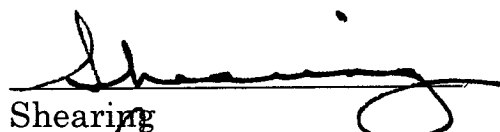
²Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974).


³Id.

⁴See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted).

Having considered McGrath's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.⁵

 J.
Shearing

 J.
Leavitt

 J.
Becker

⁵Although this court has elected to file the appendix submitted, we note that it does not comply with the arrangement and form requirements of the Nevada Rules of Appellate Procedure. See NRAP 3C(e)(2); NRAP 30(c); NRAP 32(a). Specifically, appellant's appendix does not include all of the documents required for inclusion pursuant to NRAP 30(b)(2)-(3). Counsel is cautioned that failure to comply with the requirements for appendices in the future may result in the appendix being returned, unfiled, to be correctly prepared. See NRAP 32(c). Failure to comply may also result in the imposition of sanctions by this court. NRAP 3C(n).

cc: Hon. Andrew J. Puccinelli, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk