

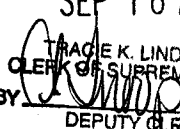
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE BABAUTA AYUYA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51163

FILED

SEP 18 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order revoking appellant Willie Babauta Ayuya's probation. Second Judicial District Court, Washoe County; Robert E. Rose, Judge.

Ayuya was convicted, pursuant to a guilty plea, of one count of attempted sexual assault. The district court sentenced Ayuya to a prison term of 24-60 months, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed two years. Ayuya did not pursue a direct appeal from the judgment of conviction.

On January 11, 2008, the Division of Parole and Probation filed in the district court a second violation report recommending that Ayuya's probation be revoked. The district court conducted a hearing and, on January 30, 2008, entered an order revoking Ayuya's probation and imposing the original sentence with credit for time served. This timely appeal followed.

Ayuya contends that the district court abused its discretion by revoking his probation. Specifically, Ayuya claims that his right to due process was violated by the district court's determination because there was insufficient evidence presented by the State. 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.¹ 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.²

Ayuya is unable to demonstrate that the district court abused its discretion by revoking his probation. At the revocation hearing, Ayuya conceded that he had not complied with two conditions of his probation: gaining employment and meeting his financial obligations.³ In revoking his probation, Senior Judge Rose made the following statement:

Well, it seems to me that it's been a chronic failure to comply with all the terms of probation. And the judge has given you, what? One, two, three chances. And while employment and financial obligations might not seem very important, they are important to, one, getting you back to lead a productive life, and two, in fulfilling your financial obligations. It doesn't seem like you have tried as hard as you should for many, many months.

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

²Id.

³See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted).

Based on the above, we conclude that the district court did not abuse its discretion by finding that Ayuya's conduct was not as good as required by the conditions of his probation

Therefore, having considered Ayuya's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Chief Judge, Second Judicial District
Hon. Robert E. Rose, Senior Justice
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk