

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD CARL BUCHANAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59484

FILED

JUN 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a district court order revoking appellant Richard Carl Buchanan's probation. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.


Buchanan contends that the district court denied him his statutory and due process right to be heard by revoking his probation without permitting him to speak on his own behalf. See NRS 176A.600(2)(a); Anaya v. State, 96 Nev. 119, 122-23, 606 P.2d 156, 158 (1980). Because Buchanan did not object at the hearing, we review this claim for plain error. Mendoza-Lobos v. State, 125 Nev. 634, 644, 218 P.3d 501, 507 (2009); Puckett v. United States, 556 U.S. 129, 134-35 (2009).

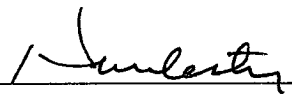
At the probation revocation hearing, Buchanan's counsel addressed the district court on his behalf, offering explanations in mitigation of the violation and arguing that he be allowed to complete a rehabilitation program. The record does not indicate that Buchanan ever demonstrated a desire to personally address the district court. Under these circumstances, we conclude Buchanan has failed to demonstrate plain error.

To the extent Buchanan alleges that the district court must personally address a probationer and inquire whether he wishes to speak, we disagree. There is no such statutory requirement, compare NRS 176.015(2)(b) (before imposing sentence the district court must personally address the defendant and ask him if he wishes to make a statement in his own behalf), with NRS 176A.600(2)(a) (district court must permit a probationer to speak on his own behalf), and due process requires only that a probationer be given the opportunity to speak, Anaya, 96 Nev. at 122, 606 P.2d at 158; see also State v. Germain, 564 A.2d 604, 605 (Vt. 1989) (probationer not denied an opportunity to speak where court did not offer him “an express invitation” to make a statement). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Chief Judge, Second Judicial District Court
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk