

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MATTHEW DAVID WARD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73501

**FILED**

FEB 13 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Matthew David Ward appeals from an order of the district court revoking probation and an amended judgment of conviction. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Ward contends his right to due process was violated because the district court revoked his probation for a violation that was not alleged in the violation report. Ward asserts the report only alleged he failed to complete the special condition of his probation by failing to pay restitution but the district court revoked his probation due to his failure to comply with laws and ordinances.

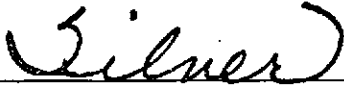
Ward did not raise an objection regarding the sufficiency of the notice provided by the probation violation report, and thus, Ward has the burden to demonstrate plain error. *Browning v. State*, 124 Nev. 517, 533, 188 P.3d 60, 71 (2008). "In conducting plain error review, we must examine whether there was error, whether the error was plain or clear, and whether the error affected the defendant's substantial rights." *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003) (internal quotation marks omitted). "[T]he burden is on the defendant to show actual prejudice or a miscarriage of justice." *Id.*


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When Ward was placed on probation, the district court imposed a number of conditions on his behavior, including "Laws: You shall comply with all municipal, county, state, and federal laws and ordinances." Ward later received a notice of violation report that alleged he had violated multiple conditions of his probation, including the "Laws" section of the probation conditions, by attempting to pay his restitution with a forged or fraudulent cashier's check. The State presented evidence and testimony regarding Ward's use of a fake check at the revocation hearing. The district court concluded Ward's actions regarding the forged or fraudulent check demonstrated his conduct was not as good as required by the terms of his probation. *See Lewis v. State*, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974).

The record before this court demonstrates Ward had sufficient notice of the allegation that he violated the laws-and-ordinances term of his probation. *See* NRS 176A.500(3); NRS 176A.600(1)(c). Therefore, Ward fails to demonstrate the district court committed plain error when revoking his probation. Accordingly, we

ORDER the order revoking probation and amended judgment of conviction AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

<sup>1</sup>In light of our decision in this matter, we deny Ward's motion for bail pending appeal.

cc: Hon. Carolyn Ellsworth, District Judge  
Nguyen & Lay  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk