

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT LEE FORTNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76682-COA

**FILED**

JUN 13 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Robert Lee Fortner appeals from an order of the district court revoking probation and reinstating judgment of conviction. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.


Fortner argues the district court abused its discretion by revoking his probation and imposing the original suspended sentence. Fortner contends he should have been afforded another opportunity at probation or the district court should have reduced his sentence.


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. *Lewis v. State*, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). 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. *Id.* In addition, NRS 176A.630 grants the district court broad discretion in determining the appropriate treatment of a probationer who violates the terms of probation, and the district court may properly cause the original sentence to be executed or modify the original sentence. We will not interfere with a sentence imposed by the district court “[s]o long as the record does not


demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

At the revocation hearing, Fortner admitted he had violated the terms of his probation by possessing a phone with access to the internet and acknowledged the phone contained sexually explicit images. The district court found Fortner's conduct was not as good as required by the conditions of his probation, revoked his probation, and imposed the original prison term of 96 to 240 months. Fortner does not allege the district court considered impalpable or highly suspect evidence when imposing sentence. Based on the record before this court, we conclude Fortner did not demonstrate the district court abused its discretion by revoking his probation or by declining to impose a reduced sentence pursuant to NRS 176A.630. Accordingly, we

ORDER the order revoking probation and reinstating judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Robert W. Lane, District Judge  
The Law Firm of Nathan L. Gent, PLLC  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk