

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER WILLIAM PALLOTTI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85050-COA

FILED

APR 07 2023

ELIZABETH A. DEWINE
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Christopher William Pallotti appeals from an order revoking probation and imposing underlying sentence. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Pallotti argues that the district court erred by declining his request for a continuance of the probation revocation hearing until after the bench trial concerning his new charge. “This court reviews the district court’s decision regarding a motion for continuance for an abuse of discretion.” *Rose v. State*, 123 Nev. 194, 206, 163 P.3d 408, 416 (2007). “Each case turns on its own particular facts, and much weight is given to the reasons offered to the trial judge at the time the request for a continuance is made.” *Higgs v. State*, 126 Nev. 1, 9, 222 P.3d 648, 653 (2010). In general, the district court abuses its discretion by denying a motion to continue if the defendant did not have an adequate time to prepare for the court proceedings. *Id.* “However, if a defendant fails to demonstrate that he was prejudiced by the denial of the continuance, then the district court’s decision to deny the continuance is not an abuse of discretion.” *Id.*

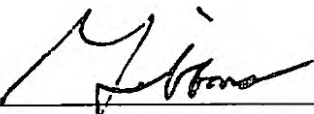
While on probation, Pallotti was arrested and charged with violation of a temporary stalking/harassment order. The State subsequently sought revocation of Pallotti's probation because his conduct violated the terms of his probation. At the revocation hearing, Pallotti admitted that he violated the terms of his probation by having adverse contact with law enforcement. Pallotti also requested a continuance of the revocation hearing until after the conclusion of the bench trial in justice court concerning his charge of violation of the temporary stalking/harassment order. Pallotti requested the continuance so that the bench trial could establish the facts concerning that charge.

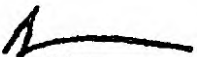
The district court noted that Pallotti admitted that his conduct violated the terms of his probation. The district court also noted that Pallotti's criminal record was "dismal" as he had six prior felony convictions. The district court stated that it believed it had been fair by giving Pallotti the opportunity to be on probation but that Pallotti's criminal history caused it concern. The district court subsequently concluded that a continuance was not warranted given the circumstances, and it therefore decided to revoke Pallotti's probation.

The evidence and facts concerning Pallotti's conduct need have only satisfied the district court that his conduct was not "as good as required by the conditions of probation," *Lewis v. State*, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974), and Pallotti's admission that he violated the terms of his probation was sufficient to demonstrate that his conduct fell below that required by those terms. In light of Pallotti's admission that he violated the terms of his probation, Pallotti did not demonstrate he was prejudiced by the district court's decision to deny his request for a continuance. Therefore,

we conclude Pallotti fails to demonstrate the district court abused its discretion by denying the motion to continue. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kimberly A. Wanker, District Judge
Andrew W. Coates
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk