

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN BOYD THIESSEN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41680

**FILED**

**FEB 12 2004**

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court revoking appellant's probation. Appellant was originally convicted, pursuant to a guilty plea, of one count of unlawful use of a controlled substance. The district court sentenced appellant to a prison term of 12 to 32 months, and suspended the sentence, placing appellant on probation for an indeterminate period not to exceed 3 years. One of the conditions of appellant's probation was that he would be randomly tested for drugs, and brought before the district court for revocation proceedings the first time he tested positive.

Appellant was sentenced on March 17, 2003. On March 25, 2003, appellant's probation officer went to appellant's residence and requested a urine sample. Appellant refused to give a sample and the probation officer rescheduled their appointment for 1:00 p.m. that same day. When the probation officer returned, appellant was not at home, and did not show up. The next day, the probation officer obtained a urine sample, which tested positive for methamphetamine. Although appellant argues that he had used methamphetamine on March 16, 2003, before being sentenced, a toxicologist testified at the revocation hearing that she could not envision a situation where methamphetamine would remain in a person's system for 10 days.

Appellant contends that the district court abused its discretion in revoking his probation. This court has held that in order to revoke probation, the district court must be reasonably satisfied by the evidence and facts "that the conduct of the probationer has not been as good as required by the conditions of probation."<sup>1</sup> In this case, appellant missed an appointment with his probation officer, initially refused to provide a urine sample, and tested positive for the use of controlled substances.

We conclude that the district court did not abuse its discretion and appellant's contention is without merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.  
Becker

Agosti, J.  
Agosti

Gibbons, J.  
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge  
State Public Defender/Carson City  
State Public Defender/Ely  
Attorney General Brian Sandoval/Carson City  
White Pine County District Attorney  
White Pine County Clerk

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<sup>1</sup>Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974).