

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-1727  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALI IMTIAZ HASHMI,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:87-CR-132-E  
- - - - -

June 23, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Ali Imtiaz Hashmi appeals the judgment of the district court revoking his probation. He argues that the evidence was insufficient to support a revocation of his probation because it consisted only of documentary evidence of a state conviction, which was not a final judgment.

The district court has broad discretion in a revocation of probation. Neither evidence to establish guilt beyond a reasonable doubt nor substantial evidence is required, "absent arbitrary and capricious action in the revocation." United

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

States v. Francischine, 512 F.2d 827, 829 (5th Cir.), cert. denied, 423 U.S. 931 (1975). We will not disturb the district court's action without a clear showing of abuse of discretion. Id.

At the hearing, the Government presented testimonial and documentary evidence that Hashmi was convicted of assault in Dallas County. Hashmi asserts that, under Texas' deferred adjudication statute, he was placed on probation, the adjudication was suspended, and he was not convicted. He argues that the deferred adjudication precludes revocation of his probation.

"All that is required for the revocation of probation is enough evidence to satisfy the district judge that the conduct of the petitioner has not met the conditions of probation." United States v. Irvin, 820 F.2d 110, 111 (5th Cir. 1987) (internal quotation and citations omitted). The district court focused on Hashmi's "conduct" rather than the "conviction" and based its findings on the documentary evidence which indicated that Hashmi pleaded guilty to assault. The evidence was sufficient to show that Hashmi had committed the alleged conduct in violation of the law. The district court did not abuse its discretion.

Hashmi also argues that he was deprived of his right to confront and cross-examine adverse witnesses in violation of due process. "The revocation of probation implicates a probationer's fundamental liberty interest and hence entitles him to procedural due process." United States v. Holland, 850 F.2d 1048, 1050 (5th Cir. 1988). The probationer must be afforded an opportunity to

heard and to offer mitigating evidence if he admits the allegations. Id.

Hashmi's allegations regarding a due process violation are contrary to the record. The district court held a revocation hearing at which Hashmi's probation officer testified concerning his investigation of the assault charge against Hashmi. Hashmi did not present witnesses in his defense, but he had an opportunity to confront and cross-examine the probation officer. Moreover, Hashmi and the Government presented documentary evidence in support of their respective positions. Hashmi was not deprived of his rights under the Due Process Clause.

AFFIRMED.