

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20050243-CA
v.	)	
	)	F I L E D
Bryan David Oliverson,	)	(September 29, 2005)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2005 UT App 416</span>

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Second District, Farmington Department, 031701729  
The Honorable Thomas L. Kay

Attorneys: Scott L. Wiggins, Salt Lake City, for Appellant  
Mark L. Shurtleff and Matthew D. Bates, Salt Lake  
City, for Appellee

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Before Judges Bench, Greenwood, and Thorne.

PER CURIAM:

Bryan David Oliverson appeals from the district court's order revoking his probation. We affirm.

Oliverson contends that the district court denied him due process during the course of his probation revocation proceedings.<sup>1</sup> Utah Code section 77-18-1(12) sets forth the procedures with which a court must comply in revoking probation. See Utah Code Ann. §77-18-1(12) (Supp. 2005). However, in State v. Martin, 1999 UT App 62, 976 P.2d 1224, this court held "the plain meaning of section 77-18-1 leads to the conclusion that probationers may elect either to have a hearing complete with all of the statutory protections set forth in subsections (b) through (e), or may waive the right to a hearing, thereby foregoing the procedural safeguards guaranteed in the statute." Id. at ¶9.

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<sup>1</sup>While Oliverson claims there are significant issues as to whether he was afforded due process, Oliverson fails to specifically state what action of the district court denied him due process.

The district court entered an order to show cause on January 12, 2005. While the order did not specifically indicate the date of the order to show cause hearing, the hearing did not take place until February 24, 2005. Oliverson appeared at the hearing with counsel. At no time did Oliverson object to the notice he received of the hearing. Accordingly, any objection alleging improper notice was waived. See State v. Olsen, 860 P.2d 332, 335 (Utah 1993) (concluding defendant waives argument if he fails to object). Further, Oliverson admitted the State's allegations that he violated the conditions of his probation. By admitting the allegations, Oliverson waived the statutory protections that require the State to present evidence based upon a denial of the allegations, allow him to cross examine the State's witnesses, and require the court to make written findings on "disputed" facts. Thus, the district court did not deny Oliverson due process in the proceedings.

Oliverson also contends that the district court abused its discretion in revoking his probation.

A determination to revoke probation is within the discretion of the trial court. We will reverse only if the evidence, when viewed in a light most favorable to the court's decision, is so deficient that it must be concluded the trial court abused its discretion. . . . Furthermore, the court's underlying factual findings supporting its conclusion that defendant violated probation will not be disturbed unless they are clearly erroneous.

State v. Ruesga, 851 P.2d 1229, 1231 (Utah Ct. App. 1993). Oliverson admitted that he violated several conditions of his probation. Under the circumstances the district court did not abuse its discretion in revoking Oliverson's probation.

Accordingly, we affirm.

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Russell W. Bench,  
Associate Presiding Judge

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Pamela T. Greenwood, Judge

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William A. Thorne Jr., Judge