

IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIA ANNE FRENCH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43572

FILED

NOV 04 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of conspiracy to commit grand larceny. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Julia Anne French to a jail term of 12 months, but suspended execution of the sentence and placed French on probation for a time period not to exceed 18 months.

French contends that the district court abused its discretion at sentencing in refusing to sentence her to time served. French argues that the sentence is too harsh given that she had no prior criminal history, had paid restitution to the victim, and the crime occurred because of her medical condition, namely, frontal lobe syndrome caused by a brain aneurysm affecting impulse control. Citing to the dissent in Tanksley v. State,¹ French asks this court to review the sentence to see that justice was done. We conclude that French's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision and will refrain from interfering with

¹113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

the sentence imposed “[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.”² Regardless of its severity, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.³

In the instant case, French does not allege that the district court relied on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁴ Moreover, the granting of probation is discretionary.⁵ Finally, the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).


⁴See NRS 199.480(3)(g); NRS 193.140 (providing for a jail term of not more than 1 year).


⁵See NRS 176A.100(1)(c).

Having considered French's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk