

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS JAIME DIAZ A/K/A JAIME
JESUS DIAZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45945

FILED

MAR 14 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of felony possession of a controlled substance. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge. The district court sentenced appellant Jesus Jaime Diaz to a prison term of 19 to 80 months, but then suspended execution of the sentence and placed Diaz on probation for a time period not to exceed 5 years.

Diaz's sole contention is that the district court abused its discretion by imposing 284 days spent in jail to be served as "flat time" as a condition of probation. Specifically, Diaz argues that "[u]nder NRS 211.320-340, the computation of a prisoner's credit in local jails is up to the sheriff or the chief of police." We conclude that Diaz's contention lacks merit.

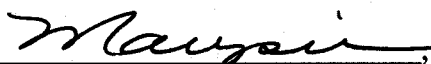
NRS 211.320-340 provides guidance to the sheriff and chief of police for the calculation of sentence credit for good conduct while confined in local jail.¹ However, there is no language in NRS 211.320-340

¹See, e.g., NRS 211.320(1)(a) ("For each month in which a prisoner . . . appears to have been obedient, orderly and faithful, the sheriff or the
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prohibiting the district court from imposing jail time as "flat time," where no sentence credit for good behavior is allowed. Moreover, NRS 193.130(2)(e) expressly authorizes the district court to impose a jail term of not more than one year as a condition of probation, and this court has previously stated that a "term of incarceration imposed as a condition of probation . . . has a useful and proper place in the range of sentencing alternatives available to the district court."² Accordingly, we conclude that the district court did not err in requiring that Diaz spend 248 "flat time" days in jail without sentence credit for good behavior.

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


ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

... continued

chief of the police . . . may deduct not more than 5 days from the term of imprisonment.").

²Creps v. State, 94 Nev. 351, 363, 581 P.2d 842, 851 (1978).

cc: Hon. Andrew J. Puccinelli, District Judge
Elko County Public Defender
Attorney General George Chanos/Carson City
Elko County District Attorney
Elko County Clerk