

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHERYL LYNN ALTIZER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46053

FILED

MAR 07 2006

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 unlawful taking of a motor vehicle. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. Appellant Cheryl Altizer was sentenced to a jail term of 12 months in the Washoe County Jail.

Altizer's sole contention is that the district court abused its discretion by refusing to grant probation. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ This court will refrain from interfering with 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 Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional,

¹See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

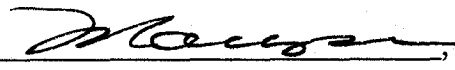
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

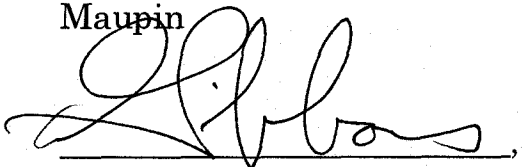
and the sentence is not so unreasonably disproportionate as to shock the conscience.³

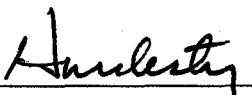
In the instant case, Altizer does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.⁴ Moreover, the granting of probation is discretionary.⁵

Having considered Altizer's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

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 205.2715; 193.140.

⁵See NRS 176A.100(1)(c).

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk