

IN THE SUPREME COURT OF THE STATE OF NEVADA

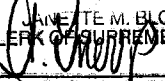
ELIZABETH AMBER TURNER AKA
ELIZABETH AMBER EUFEMIO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47249

FILED

SEP 06 2006

ORDER OF AFFIRMANCE

ANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of forgery. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Elizabeth Amber Turner to 18-48 months in prison, suspended execution of the sentence, and placed her on probation for an indeterminate period not to exceed 3 years. On May 5, 2006, the district court entered an order revoking Turner's probation and imposing the original sentence with credit for time served.

First, Turner contends that the district court abused its discretion in revoking her probation. At the probation revocation hearing, Turner stipulated to several violations of the conditions of her probation, and argued for reinstatement due to her troubled family situation and her acceptance into an inpatient treatment facility.

The decision to revoke probation is within the broad discretion of the district court and will not be disturbed absent a clear showing of

abuse.¹ Evidence supporting a decision to revoke probation must merely be sufficient to reasonably satisfy the district court that the conduct of the probationer was not as good as required by the conditions of probation.²

Turner is unable to demonstrate that the district court abused its discretion in revoking her probation. As noted above, Turner admitted to violating the conditions of her probation, and her violations included, among other things, being arrested for possession of controlled substances and possession of narcotics paraphernalia. Accordingly, we conclude that Turner's conduct was not as good as required by the conditions of her probation, and that the district court did not err in rejecting her claim.³

Second, Turner contends that the district court abused its discretion at sentencing by imposing a sentence which constitutes cruel and/or unusual punishment in violation of the United States and Nevada Constitutions.⁴ We disagree.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the

¹Lewis v. State, 90 Nev. 436, 529 P.2d 796 (1974).

²Id.

³See generally McNallen v. State, 91 Nev. 592, 540 P.2d 121 (1975) (revocation of probation affirmed where violation by probationer not refuted).

⁴See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6.

crime.⁵ This court has consistently afforded the district court wide discretion in its sentencing decision.⁶ The district court's discretion, however, is not limitless.⁷ Nevertheless, we 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."⁸ Despite its severity, a sentence within the statutory limits is not cruel and/or unusual punishment unless the statute itself is unconstitutional, or the sentence is so unreasonably disproportionate to the crime as to shock the conscience.⁹

In the instant case, Turner does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. In fact, the sentence imposed by the district court was within the parameters provided by the relevant statutes.¹⁰ And finally, we note that in exchange for her guilty plea, Turner received a substantial benefit: the State agreed to dismiss

⁵Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

⁶Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

⁷Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

⁸Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).


⁹Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

¹⁰See NRS 205.090; NRS 193.130(2)(d) (category D felony punishable by a prison term of 1-4 years).

additional charges and not oppose probation. Therefore, we conclude that the district court did not abuse its discretion at sentencing.

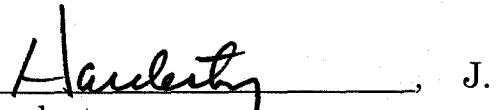
Having considered Turner's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.¹¹

 J.

Maupin
 J.

Gibbons

 J.
Hardesty

cc: Hon. Donald M. Mosley, District Judge
Clark County Public Defender Philip J. Kohn
Elizabeth Amber Turner
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

¹¹Because Turner is represented by counsel in this matter, we decline to grant her permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, this court shall take no action and shall not consider the proper person documents Turner has submitted to this court in this matter.