

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHAUNT'L LENYCE WILSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48719

FILED

AUG 04 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted robbery. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge. The district court sentenced appellant Chaunt'l Lenyce Wilson to a prison term of 12-36 months, suspended execution of the sentence, and placed her on probation for an indeterminate period not to exceed two years.

Wilson contends that the district court erred by sentencing her to 90 days flat time as a condition of probation. Wilson argues that (1) no statute or rule allows for the imposition of a flat time sentence, and (2) the imposition of a flat time sentence is unconstitutional and violates the separation of powers doctrine.

"A flat time sentence is a form of determinate sentencing . . . whereby the offender must serve the exact penalty imposed without the ability to earn credits, while incarcerated, towards early release."¹ In Haney v. State, this court stated that "there is no statutory basis for flat

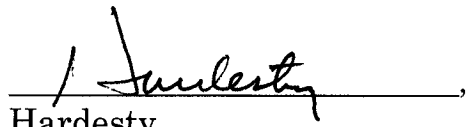
¹Haney v. State, 124 Nev. ___, ___, 185 P.3d 350, 352 (2008).

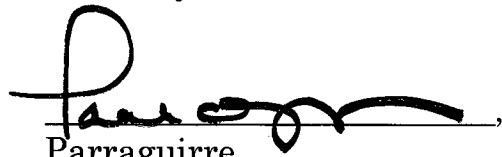
time sentencing”² and noted that “the Legislature has clearly evinced its intention to confer authority upon the sheriff’s office to determine whether an individual inmate is eligible for good time [and work time] credits and that allowing flat time sentencing is contrary to that intent.”³ Nevertheless, this court also stated in Haney that it approves of the imposition of a flat time sentence as a condition of probation.⁴

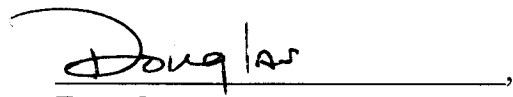
In the instant case, it is clear from the record that Wilson was sentenced to serve 90 days flat time in the county jail as a condition of probation. Therefore, we conclude that the district court did not err at sentencing.

Having considered Wilson’s contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

²Id.

³Id. at ___, 185 P.3d at 353.

⁴Id. at ___ n.21, 185 P.3d at 354 n.21; see also NRS 176A.400.

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk