

IN THE SUPREME COURT OF THE STATE OF NEVADA

KELLEY MARIE MENESINI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49011

FILED

JUN 22 2007

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, entered pursuant to a guilty plea, of one count of burglary. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Kelley Marie Menesini to serve a prison term of 16 to 72 months, imposed the sentence to run consecutively to the sentences she had received in other cases, and ordered her to pay restitution in the amount of \$3,413.08.

Menesini contends that the district court abused its discretion at sentencing by incarcerating her in prison where she would burden society's resources instead of pursuing the drug treatment options proposed by defense counsel, which would allow her to "move forward with a positive effect of society." She requests a new sentencing hearing before a different judge.



We have consistently afforded the district court wide discretion in its sentencing decision.¹ 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."² 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 as to shock the conscience.³

Menesini 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 statute.⁴ Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

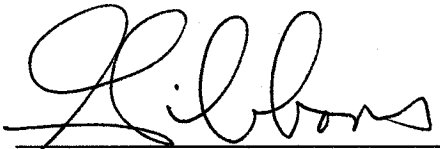
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

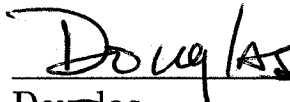
³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

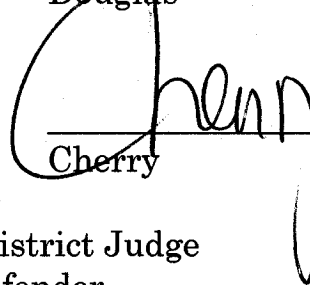
⁴See NRS 205.060(2) (burglary is punishable by a prison term of 1 to 10 years).

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk