

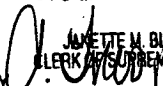
IN THE SUPREME COURT OF THE STATE OF NEVADA

BLAINE RICHARD FLOREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49305

FILED

AUG 21 2007

BY  JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of reckless driving. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Blaine Richard Florez to serve a prison term of 12 to 48 months.

Florez contends that the district court abused its discretion at sentencing by incarcerating him in prison where he would burden society's resources instead of placing him on probation where he could pursue substance abuse counseling and "move forward with a positive effect on society." He 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

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

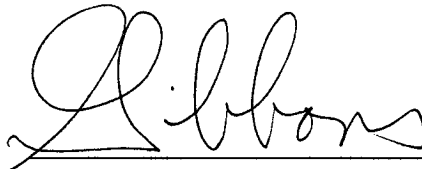
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

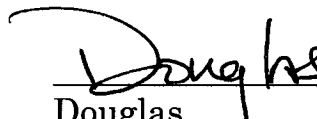
unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.³

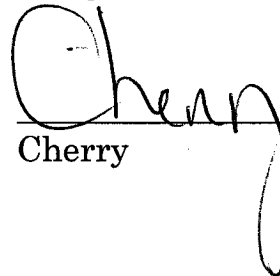
Florez does not allege that the district court relied on palpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statute,⁴ and that the granting of probation is discretionary.⁵ Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

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 484.377(2) (reckless driving causing substantial bodily harm is punishable by a prison term of 1 to 6 years).

⁵See NRS 176A.100(1)(c).

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