

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN KEITH HAMPTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52236

**FILED**

APR 22 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of revocation of probation and second amended judgment of conviction. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On April 12, 2007, the district court convicted appellant Bryan Keith Hampton, pursuant to a guilty plea, of one count of aggravated stalking. The district court sentenced Hampton to a prison term of 72 to 180 months, suspended execution of the sentence, and placed Hampton on probation for a fixed period of five years. Hampton did not file a direct appeal.

On January 3, 2008, Hampton appeared before the district court for a probation revocation hearing. The district court reinstated probation with added conditions and subsequently entered an amended judgment of conviction, which reflected the additional conditions.

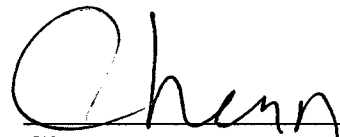
On July 17, 2008, Hampton again appeared before the district court for a revocation hearing. Hampton stipulated to the violation and argued for reinstatement. The district court ordered probation revoked and imposed the original sentence with credit for time served. On August

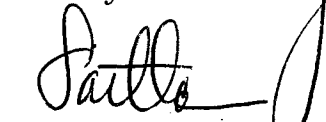
14, 2008, the district court entered an order for revocation of probation and second amended judgment of conviction. This appeal followed.


Hampton claims that the district court abused its discretion by sentencing him to a prison term of 72 to 180 months for a crime that did not result in physical injury to the victim and that his sentence constitutes cruel and unusual punishment.

Hampton's claim is not properly raised in this appeal. The order of revocation of probation and second amended judgment of conviction merely reinstated the sentence that the district court imposed in its original judgment of conviction, and Hampton did not challenge his sentence in a direct appeal from the original judgment of conviction. We have repeatedly stated that "claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings." See Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999). Having concluded that Hampton waived this claim by failing to pursue it in a direct appeal from the original judgment of conviction, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

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