

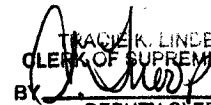
IN THE SUPREME COURT OF THE STATE OF NEVADA

MILAGROS ROSARIO RAYRAY A/K/A
MILAGROS R. SURATOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53531

FILED

JAN 08 2010

TRACER K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of exploitation of an older or vulnerable person. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

First, Rayray contends that she was effectively denied her statutory right to allocution at sentencing by the district court's repeated interruptions and "bullying." See NRS 176.015(2)(b). We disagree. When given the opportunity to make a statement limited to mitigation, Rayray chose to discuss her innocence. In Echavarria v. State, this court held that a defendant has no right to introduce unsworn, self-serving statements of innocence at allocution because her guilt has already been determined. 108 Nev. 734, 744, 839 P.2d 589, 596 (1992). Therefore, we conclude that Rayray's contention is without merit.

Second, Rayray contends that, because she is indigent, the district court abused its discretion at sentencing by imposing a fine of \$25,000. We disagree. Rayray fails to demonstrate that the sentencing statute is unconstitutional and, as she concedes, the fine imposed by the district court was within the parameters provided by the relevant statute. See NRS 200.5099(3)(c). Further, Rayray's sentence and fine are not so

unreasonably disproportionate to her crime as to shock the conscience. See Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). Therefore, we conclude that the district court did not abuse its discretion by imposing a \$25,000 fine. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987); cf. Gilbert v. State, 99 Nev. 702, 708, 669 P.2d 699, 703 (1983) (holding that there is no constitutional impediment to imposing a mandatory fine on an indigent defendant).

Third, Rayray contends that the district court abused its discretion by "ignoring" her oral motion to withdraw her guilty plea. Rayray did not file a motion to withdraw her guilty plea, see D.C.R. 13, raise the matter again, or object to being sentenced. Rayray has provided no persuasive authority in support of her contention that the district court should have, sua sponte, treated the ambiguous comment she made at her sentencing hearing as a motion to withdraw her guilty plea, and we conclude that the district court did not abuse its discretion in this regard.

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

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk