

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONNIE JAMES BARTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54666

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of unlawful possession of a controlled substance not for the purpose of sale. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge. The district court sentenced appellant Ronnie James Barton to a prison term of 19 to 48 months, suspended execution of the sentence, and placed Barton on probation for a period not to exceed five years.

Barton contends that the district court abused its discretion at sentencing by refusing his request to enter a diversion program pursuant to Chapter 458 of the Nevada Revised Statutes. At sentencing, the district judge observed that he had known Barton for a long time in drug court, noted that Barton had avoided two felony convictions by successfully completing a diversion program administered by the drug court, and determined that Barton would not get another diversion program. We note that Barton has not shown that the district court relied on impalpable or highly suspect evidence, see Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976), or that the sentence falls outside the parameters of the relevant statutes, see NRS 193.130(2)(e); NRS

453.336(2)(a). And we conclude that the district court did not abuse its discretion at sentencing. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987); see also NRS 458.320(2) (providing that if the district court determines that a defendant is not a good candidate for treatment, the sentence may be imposed and executed). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Carson City
State Public Defender/Ely
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk