

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACY LANE VINING, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55195

**FILED**

JUN 09 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of being an ex-felon in possession of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Tracy Lane Vining, Jr., contends that the district court abused its discretion at sentencing by imposing a prison term rather than probation and referral to a specialty court treatment program. This court will not disturb a district court's sentencing determination absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Vining has not demonstrated that the district court relied solely on impalpable or highly suspect evidence or alleged that the relevant sentencing statutes are unconstitutional. See Denson v. State, 112 Nev. 489, 492-93, 915 P.2d 284, 286-87 (1996); see also Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004). Further, the granting of probation is discretionary and Vining's sentence falls within the parameters provided by the relevant statute. See NRS 176A.100(1)(c); NRS 202.360(1).

Therefore, we conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Janet J. Berry, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk