

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY SYON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55953

FILED

NOV 05 2010

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sex-offender failure to notify appropriate agency of change of address. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant Anthony Syon contends that the district court abused its discretion by sentencing him to prison instead of probation because he was already on lifetime supervision, employed, attending treatment, and attempting to maintain sobriety. We disagree.

The 12-30 month sentence is within the statutory limits, see NRS 179D.550(2); NRS 193.130(2)(d), and is not “so unreasonably disproportionate to the offense as to shock the conscience.” Blume 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)). Further, Syon does not allege 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). As discussed below, the judgment of conviction contains a clerical error regarding the statute under which Syon was convicted; however, the record does not indicate that the district court’s sentencing decision was impacted by the error 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).

Regarding the clerical error, on September 17, 2010, this court entered an order noting that although Syon was convicted pursuant to NRS 179D.550(2), which provides the penalty for a second violation of NRS 179D.550(1), it appeared that the instant conviction was his first violation of NRS 179D.550(1). Pursuant to our September 17 order, the parties have filed supplemental fast track briefs and agree that no prior conviction of NRS 179D.550(1) was alleged in the information or the guilty plea agreement, or proven at any time during the proceedings. Further, the record indicates that Syon, the State, and the district court understood that Syon pleaded guilty to and was sentenced for a first offense under NRS 179D.550(1). Based on these circumstances, it appears that the charging document contained a clerical error that carried through to the guilty plea agreement and the judgment of conviction—the documents incorrectly state that Syon was charged with and convicted of a violation of NRS 179D.550(2) rather than NRS 179D.550(1). Accordingly, after the issuance of the remittitur, the district court shall enter an amended judgment of conviction reflecting that Syon was convicted of a violation of NRS 179D.550(1).

Having considered Syon's contentions, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

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