

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLORENCIO PEREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56466

FILED

JAN 13 2011

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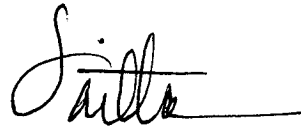
ORDER AFFIRMING AND REMANDING

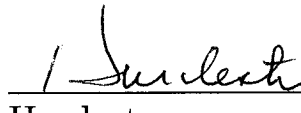
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of trafficking in a controlled substance. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

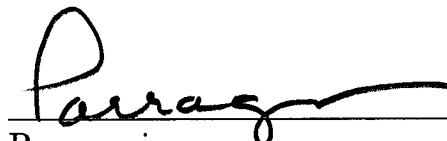
Appellant Florencio Perez contends that the district court abused its discretion by imposing an excessive sentence. This court will not disturb a district court's sentencing determination absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Perez has not alleged that the district court relied solely on impalpable or highly suspect evidence or that the relevant sentencing statute is 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). Perez's prison term of 10-25 years falls within the parameters provided by the relevant statute, NRS 453.3385(3)(b), and the sentence is not "so unreasonably disproportionate to the offense as to shock the conscience," Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). Therefore, we conclude that the district court did not abuse its discretion at sentencing.

Finally, we note that the judgment of conviction erroneously states that Perez pleaded guilty to violating NRS 458.3385(3) when, in fact, he violated NRS 453.3385(3). Therefore, we remand the matter to the district court for the entry of a corrected judgment of conviction following the issuance of the remittitur. See NRS 176.565 (providing that clerical errors in judgments may be corrected at any time); Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994) (the district court does not regain jurisdiction following an appeal until the supreme court issues its remittitur). Accordingly, we

ORDER the judgment of conviction **AFFIRMED AND REMAND** this matter to the district court for proceedings consistent with this order.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Hardy Law Group
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk