

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN D. SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35676

FILED

MAY 10 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of coercion. The district court sentenced appellant to 28 to 70 months in prison and ordered appellant to pay \$420.00 in restitution. The district court suspended the sentence of imprisonment and placed appellant on probation for a period not to exceed three years.

Appellant contends that the district court abused its discretion when it imposed conditions on appellant's probation which are ordinarily reserved for sex offenders. NRS 176A.400(1) provides, in part [of probation] that the district "court may fix the terms and conditions, including, without limitation: . . . Any reasonable conditions to protect the health, safety or welfare of the community." Moreover, a district court judge enjoys wide discretion under grants of authority to impose such conditions. See Creps v. State, 94 Nev. 351, 360-61, 581 P.2d 842, 848-49 (1978). Appellant was initially charged with battery with intent to commit a crime, attempted sexual assault, and sexual assault. Pursuant to plea negotiations with the State, appellant was allowed to plead guilty to one count of coercion. In light of the crimes

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with which appellant was charged, we conclude that the district court did not abuse its discretion by including some of the conditions included in NRS 176A.410 as conditions of appellant's probation.

Appellant also argues that his right to due process was violated because he did not have notice that the State was going to seek the conditions of probation that were imposed. However, the plea agreement specifically provided that the State reserved the right to argue regarding the conditions of probation. We therefore conclude that this argument is without merit.

Appellant further contends that the State breached the plea agreement by arguing for probationary conditions usually reserved for sex offenders. Appellant's argument is based on the fact that the State had agreed not to ask that appellant be treated as a sex offender for registration purposes and that appellant's felony would not be treated as a sex offense. As previously noted, the State specifically reserved the right to argue regarding the conditions of probation. We therefore conclude that this contention is without merit.

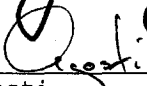
Finally, appellant argues that the condition that requires him to submit to periodic polygraphic examinations "is so vague that it allows the Department of Parol [sic] and Probation to conduct limitless polygraph examinations on any type of subject imaginable. As such it violated the right to due process, the right to be protected against unreasonable searches and seizures and it is cruel and unusual punishment." Appellant fails to provide any citation to authority in support of his argument and this court therefore need not consider the argument. See Maresca v. State, 103 Nev. 669,

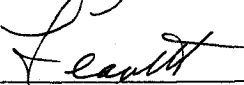
673, 748 P.2d 3, 6 (1987).

Having considered all of appellant's contentions and concluded that they are without merit, we

ORDER this appeal dismissed.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Mark W. Gibbons, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk