

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTINE JEAN GIUSTI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67951

FILED

SEP 15 2015

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 jury verdict, of unlawful use of a controlled substance. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

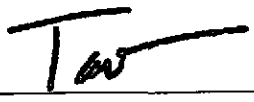
Appellant Christine Jean Giusti argues the district court abused its discretion by sentencing her to prison rather than to probation or drug court. Giusti argues the district court imposed a prison term because Giusti exercised her right to a trial rather than pleading guilty. We review a district court's sentencing decision for abuse of discretion. *See Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). A sentencing "court is privileged to consider facts and circumstances which clearly would not be admissible at trial." *Silks v. State*, 92 Nev. 91, 93-94, 545 P.2d 1159, 1161 (1976). However, we "will reverse a sentence if it is supported *solely* by impalpable and highly suspect evidence." *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

Our review of the record reveals the district court did not base its sentencing decision on impalpable or highly suspect evidence. The district court considered Giusti's criminal history and concluded probation and drug court were not appropriate, particularly in light of Giusti's prior

instances of failing to successfully complete probation or parole. We therefore conclude Giusti fails to demonstrate the district court abused its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Michael Montero, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk