

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTINE COLLEEN MACDONALD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70331

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of felony unlawful use of a controlled substance. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

The district court sentenced appellant Christine MacDonald to 19 to 48 months in prison, suspended her sentence, placed her on probation for one year, and required her to spend 364 days' flat time in the county jail as a condition of probation. MacDonald claims this sentence constitutes cruel and unusual punishment because it is disproportionate to her crime, fails to provide treatment for her drug addiction, and ignores her underlying drug addiction problem.

Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is 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)); see also *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime


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and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

Here, the sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(e); NRS 453.411(3)(a), and MacDonald does not allege these statutes are unconstitutional. We note the record demonstrates MacDonald was placed in the Fifth Judicial District Adult Drug Court Program prior to sentencing, she failed to comply with the drug court program's rules and requirements, she was terminated from the program, and she was returned to the district court for further proceedings. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Kimberly A. Wanker, District Judge
Law Office of Lisa Chamlee, Ltd.
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk