

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PAMELA ANN ERWIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70150

FILED

DEC 14 2016

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

ORDER OF AFFIRMANCE

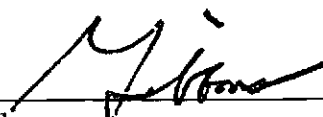
Appellant Pamela Ann Erwin appeals from a judgment of conviction entered pursuant to a plea of no contest to a charge of second-degree murder. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

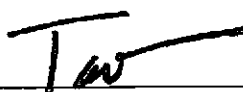
Erwin claims the district court erred in sentencing her to life in prison with the possibility of parole after receiving prejudicial, highly suspect, and impalpable information about her past conduct and lack of remorse. In particular, Erwin asserts "the State condemned [her] for failing to take responsibility, a lack of empathy, self-pity, and a history of violence" and her daughter suggested she should "rot in hell" for the mental and physical abuse she inflicted.

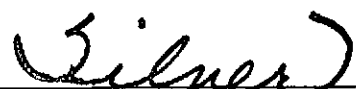
We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). The record reveals the district court reviewed the presentence investigation report and heard the parties' sentencing arguments, Erwin's allocution, and the victim impact statements. It does not reveal the district court relied *solely* on the State's allegedly improper sentencing argument or Erwin's daughter's victim impact statement. See *Denson v.*

State, 112 Nev. 489, 493, 915 P.2d 284, 287 (1996) (“A district judge’s sentencing decision will be reversed if it is supported *solely* by impalpable and highly suspect evidence.”). Accordingly, we conclude the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.¹


_____, 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

¹We reject the State assertion this appeal should be dismissed for violating the provisions of NRS 177.015(4). NRS 177.015(4) permits a defendant to appeal from a final judgment resulting from a guilty plea if “the appeal is based upon reasonable constitutional, jurisdictional or *other grounds* that challenge the legality of the proceedings.” (Emphasis added). And *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 979 P.2d 222 (1999), identifies “a challenge to the sentence imposed on constitutional or other grounds” as a claim that may be raised on direct appeal from a final judgment resulting from a guilty plea.