

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HEATHER ANN CAREY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74531

FILED

SEP 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE


Heather Ann Carey appeals from a judgment of conviction entered pursuant to a guilty plea of obtaining and using personal identification of another. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

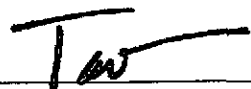
Carey argues the district court abused its discretion at sentencing because it has a practice of distinguishing between drug users who only abuse drugs and those who commit crimes to support a drug habit. Carey asserts this practice does not strike a fair accommodation between the need for a drug user to receive rehabilitation versus society's interest in safety and deterrence.

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). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by palpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

Our review of the record reveals the district court did not base its sentencing decision on impalpable or highly suspect evidence. During the sentencing hearing, Carey stated her problems stemmed from mental health issues and drug abuse, and she requested to be placed on probation with access to treatment programs. In response, the district court explained that it distinguished between drug users who simply abuse drugs and those who harm others while under the influence of drugs. The district court concluded that Carey had significantly harmed the victim in this matter by taking and using the victim's identification, and that Carey was a danger to society. The district court sentenced Carey to serve a term of 48 to 148 months in prison, which was within the parameters of the relevant statute. See NRS 205.463(1). Moreover, the decision to deny Carey's request for probation was within the district court's discretion. See NRS 176A.100(1)(c). Based on the record before this court, we conclude the district court did not abuse its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Scott N. Freeman, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk