

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEOTIS WAYNE ALLEN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36805

**FILED**

JAN 30 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. [Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted grand larceny. The district court sentenced appellant to serve 12 to 36 months in prison.

Appellant's sole contention is that the district court erred by sentencing appellant without giving counsel the opportunity to speak on appellant's behalf in violation of NRS 176.015(2)(a).<sup>1</sup> We conclude that appellant's contention lacks merit.

The district court started the sentencing hearing by addressing appellant personally and asking him if he had anything to say in his own behalf. See NRS 176.015(2)(b). Appellant apologized to the State, the community and the victim. When asked to address his prior criminal record (including 25 arrests), appellant mentioned that he is a drug addict and had been participating in the Drug Court Program. This sparked a discussion between the district court, appellant and counsel for appellant regarding appellant's status in that program. During that discussion, counsel for appellant did not address the appropriate sentence in this case or any information in mitigation of punishment. After that discussion, the district court imposed the sentence recommended by the Division of Parole and Probation.

<sup>1</sup>NRS 176.015(2)(a) provides that before sentencing a defendant, the district court must "[a]fford counsel an opportunity to speak on behalf of the defendant."

It appears that counsel for appellant had an opportunity to speak on behalf of appellant before the district court sentenced appellant. While the district court did not specifically ask counsel for appellant to present any information in mitigation of punishment, counsel never objected or mentioned any such mitigating information when he did speak during the sentencing hearing. We conclude that under the circumstances, appellant is not entitled to a new sentencing hearing. Accordingly, we affirm the judgment of conviction.

It is so ORDERED.

<u>Young</u> Young	J.
<u>Rose</u> Rose	J.
<u>Becker</u> Becker	J.

cc: Hon. Donald M. Mosley, District Judge  
Attorney General  
Clark County District Attorney  
Clark County Public Defender  
Clark County Clerk