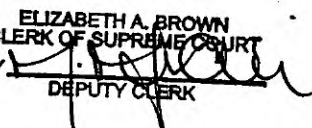


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANNON L. TITUS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87814-COA

FILED
SEP 12 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Shannon L. Titus appeals from a judgment of conviction, entered pursuant to a guilty plea, of driving under the influence of alcohol and/or a controlled or prohibited substance, above the legal limit, resulting in substantial bodily harm. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Titus argues the district court abused its discretion at sentencing by imposing a 36-to-90-month prison sentence without adequately considering the mitigating circumstances and without articulating the reasons for its sentencing decision. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

The sentence imposed is within the parameters provided by the relevant statute. *See* NRS 484C.430(1). And while Titus generally alleges the district court relied on impalpable or highly suspect evidence in imposing her prison sentence, she fails to argue what evidence was impalpable or highly suspect and why. At the sentencing hearing, Titus argued and presented evidence in mitigation, and there is no indication the district court failed to consider these arguments or the mitigating evidence before it. Further, a district court is not required to articulate its reasons for imposing a particular sentence. *See Campbell v. Eighth Jud. Dist. Ct.*, 114 Nev. 410, 414, 957 P.2d 1141, 1143 (1998). Having considered the sentence and the crime, we conclude the district court did not abuse its discretion in sentencing Titus.

Next, Titus argues the district court plainly erred in its award of restitution. Titus did not object to the district court's restitution award below; therefore, she is not entitled to relief absent a demonstration of plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018). To demonstrate plain error, Titus must show "(1) there was an error; (2) the error is plain, meaning that it is clear under the current law from a casual inspection of the record; and (3) the error affected [her] substantial rights." *Id.* at 50, 412 P.3d at 48 (internal quotation marks omitted).

First, Titus alleges that the restitution amount awarded for the victim's medical costs is inaccurate and not supported by competent evidence because the evidence offered by the State was not limited to what the medical provider would accept as payment in full. The State is "required to present evidence at sentencing to prove the amount of restitution" when the defendant challenges the restitution amount. *Nied v. State*, 138 Nev. 275, 277, 509 P.3d 36, 39-40 (2022). "[R]estitution for a victim's medical

costs is limited to the amount that the medical provider accepts as payment in full rather than the amount initially billed by the medical provider.” *Id.* at 275, 509 P.3d at 38. The restitution order must be based on competent evidence. *Gee v. State*, 140 Nev., Adv. Op. 16, 545 P.3d 90, 92 (2024). And “[s]entencing courts are cautioned to rely on reliable and accurate evidence in setting restitution.” *Martinez v. State*, 115 Nev. 9, 13, 974 P.2d 133, 135 (1999). Because the imposition of restitution is a sentencing determination, this court generally will not disturb a district court’s restitution award so long as it does not rest upon impalpable or highly suspect evidence. *See id.* at 12-13, 974 P.2d at 135.

In support of the restitution award related to the victim’s medical costs, the State offered documents attached to the presentence investigation report (PSI), which the State characterized as “medical records and receipts,” and additional representations based on its understanding of the victim’s medical costs. Titus did not challenge the amounts listed in the supporting documents or the State’s representations. And while Titus stated it was her expectation that her insurance company would pay the victim’s medical costs and was “working closely with the victim,” she does not identify any evidence in the record indicating that the amounts offered by the State inaccurately reflected what the medical providers agreed to accept as payment in full. Therefore, Titus fails to demonstrate any error in the district court’s restitution award for the victim’s medical costs that is clear under the current law from a casual inspection of the record.

Second, Titus alleges that the restitution amount for radiology services is inaccurate because multiple providers billed the victim for radiology services. As discussed above, Titus did not dispute these

amounts, and she does not identify any evidence in the record that the victim was billed twice for the same radiology services. Therefore, Titus fails to demonstrate any error in the district court's restitution award for the radiology services that is clear under the current law from a casual inspection of the record.

Third, Titus alleges the district court erred by ordering restitution be paid directly to the medical providers because they are not victims. The Nevada Supreme Court has held that a district court may order restitution be paid directly to the medical providers if the bills directly resulted from the defendant's criminal conduct. *See Martinez*, 115 Nev. at 11, 974 P.2d at 134 (acknowledging medical care providers are not victims of crime but holding "the district court could properly order [the criminal defendant] to pay as restitution the victims' medical bills that directly resulted from [the defendant's] criminal conduct"). Titus does not allege the medical costs were not the result of her criminal conduct. Therefore, Titus fails to demonstrate any error in the district court's restitution award that was clear under the current law from a casual inspection of the record.

Finally, Titus argues the district court erred by orally ordering that restitution for the victim's towing expenses be paid to the towing company but later ordering in the written judgment of conviction that it be paid directly to the victim. Before the written judgment of conviction is signed and entered, the district court retains "jurisdiction to modify or suspend [its] earlier decision." *Miller v. Hayes*, 95 Nev. 927, 929, 604 P.2d 117, 118 (1979). Titus does not allege that the discrepancy between the oral pronouncement and the written judgment was the result of an oversight or a clerical error. *See Ledbetter v. State*, 122 Nev. 252, 266, 129 P.3d 671, 681 (2006). And the documents attached to the PSI included a receipt for a

credit card payment to the towing company. Therefore, Titus failed to demonstrate that the district court erred by modifying its earlier decision, and we conclude Titus is not entitled to relief based on this claim. Accordingly, we

ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kathleen M. Drakulich, District Judge
Karla K. Butko
Attorney General/Carson City
Attorney General/Las Vegas
Washoe County District Attorney
Washoe District Court Clerk

¹To the extent Titus raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.