

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KASEY DAWN HARGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90725-COA

KASEY DAWN HARGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90726-COA

FILED

MAR 23 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Melissa Fuller*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kasey Dawn Harger appeals from two judgments of conviction. First Judicial District Court, Carson City; James Todd Russell, Senior Judge. In district court case no. 24 CR 00021 1B (Docket No. 90725), Harger was convicted, pursuant to a guilty plea, of stop required upon signal of peace officer while under the influence of alcohol and/or controlled substance and battery by a prisoner, probationer or parolee. She was sentenced to a term of 19 to 48 months in prison with a concurrent term of 28 to 72 months in prison. In district court case no. 24 CR 00221 1B (Docket No. 90276), Harger was convicted, pursuant to a guilty plea, of attempted battery by a "prisoner or parolee."¹ She was sentenced to 24 to 60 months

¹We note that it appears the word "probationer" was omitted from the judgment of conviction.

in prison, to be served consecutively to district court case no. 24 CR 00021 1B.

Harger argues the district court abused its discretion by declining to place her on probation and instead imposing sentences of imprisonment in both cases. The granting of probation in these cases was discretionary. See NRS 176A.100(1)(c); *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) (“The sentencing judge has wide discretion in imposing a sentence . . .”). 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).

First, Harger argues the district court failed to consider her mitigating circumstances: (1) her problems began when her child died in 2015; (2) she was in the Western Regional Drug Court Program, and (3) she was making progress with her mental health and substance abuse issues. To support her argument at sentencing, she provided two psychological assessments and testimony from a person at the Reno/Sparks Gospel Mission. She argues the district court made no comment on her mitigation evidence and focused entirely on her criminal history and violations she committed when she was previously in the custody of the Nevada Department of Corrections.

Harger’s sentences are within the parameters provided by the relevant statutes. See NRS 193.130(c); NRS 193.153(1)(3); NRS 200.481(2)(f); NRS 484B.550(5). The district court received the mitigation

evidence and heard the arguments of the parties. The district court also heard from the defendant and the representative from the Reno/Sparks Gospel Mission. After reviewing this evidence and hearing the arguments of the parties, the district court found that Harger was not a good candidate for probation based on her criminal record and the facts of the crimes where she put the public in danger. Based on this record, we conclude the district court did not abuse its discretion by declining to suspend the sentence and place Harger on probation.

Second, Harger argues the district court abused its discretion by relying on impalpable and highly suspect evidence, specifically statements made by the State. Harger contends the State improperly argued, based on evidence not in the record, that Harger: (1) risked the lives of everyone else's child on the road without any information that children were present on the road; (2) could have destroyed a house rather than just the fence based on evidence not in the record; and (3) appeared to be under the influence of methamphetamine when she attempted to batter while a probationer. Harger also argues the prosecutor improperly vouched for the credibility of the probation officer.

Harger did not object to these statements by the prosecutor below, and she does not argue plain error on appeal. *See Martinorellan v. State*, 131 Nev. 43, 48, 343 P.3d 590, 593 (2015) (stating "all unpreserved errors are to be reviewed for plain error without regard as to whether they are of constitutional dimension"). Specifically, Harger does not argue that any error is "clear under current law from a casual inspection of the record." *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). We thus conclude she has forfeited this claim, and we decline to review it on appeal. *See id.* at 52, 412 P.3d at 49 ("[T]he decision whether to correct a forfeited error is

discretionary.”); *see also Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005) (stating it is the appellant’s burden to demonstrate plain error); *State v. Eighth Jud. Dist. Ct. (Doane)*, 138 Nev. 896, 900, 521 P.3d 1215, 1221 (2022) (recognizing the Nevada appellate courts “follow the principle of party presentation” and thus “rely on the parties to frame the issues for decisions and assign to courts the role of neutral arbiter of matters the parties present” (quoting *Greenlaw v. United States*, 554 U.S. 237, 243 (2008))); *Senjab v. Alhulaibi*, 137 Nev. 632, 633-34, 497 P.3d 618, 619 (2021) (“We will not supply an argument on a party’s behalf but review only the issues the parties present.”).

Next, Harger argues she was entitled to an additional 112 days of presentence credit. Harger did not object to the presentence credit award below or request these additional credits at sentencing. In response to the State’s argument that this court should decline to consider this claim on appeal because it was not raised below, Harger argues she filed a claim for 90 additional presentence credits in a postconviction petition for a writ of habeas corpus filed after her judgments of conviction were filed in these cases.²

Harger fails to demonstrate this issue was preserved for review on direct appeal by the filing of a postconviction petition for a writ of habeas corpus. Further, even were we to review this claim on appeal, Harger fails to demonstrate she is entitled to additional presentence credit. Harger admits she was on probation for a Third Judicial District Court case when she committed the instant crimes, and the requested credit would only go

²We note that Harger amended her claim for presentence credit to 74 days of credit in her reply brief for this appeal.

toward her probation case. See NRS 176.055(2)(b). Thus, we conclude Harger is not entitled to relief. Accordingly, we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: First Judicial District Court
Carson City Public Defender
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk