

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACY MICHELLE NEWTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61357

**FILED**

FEB 13 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

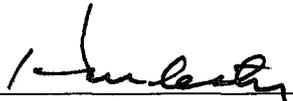
ORDER OF AFFIRMANCE

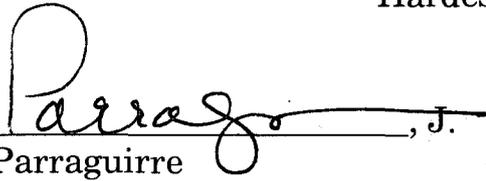
This is an appeal from a judgment of conviction, pursuant to an Alford plea, of unlawful possession of methamphetamine not for purpose of sale. See North Carolina v. Alford, 400 U.S. 25 (1970). Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

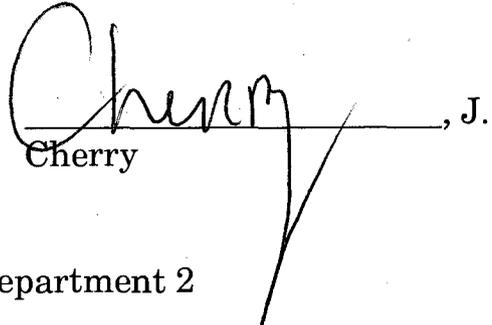
Appellant Tracy Michelle Newton claims that the district court abused its discretion by imposing a prison term and refusing to grant her probation or place her in a diversion program. At sentencing, the district court noted that Newton had a history of using drugs and alcohol and was asking for probation. The district court imposed a prison term of 12-36 months after stating that it was disturbed that Newton had failed her probation on her two prior felony convictions and five of her six prior misdemeanor convictions. We conclude the district court did not abuse its discretion by refusing to grant Newton probation or place her in a diversion program, see NRS 176A.100(1)(b)(4); NRS 193.130(2)(e); NRS

453.336(2)(a); Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Cherry

cc: Seventh Judicial District Court, Department 2  
State Public Defender/Ely  
Attorney General/Carson City  
White Pine County District Attorney  
White Pine County Clerk