IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SARAH LEAH STANKO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84709-COA

FILED

NOV 08 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

Sarah Leah Stanko appeals from a judgment of conviction, entered pursuant to a guilty plea, of an act in wanton disregard for safety of persons causing substantial bodily harm. First Judicial District Court, Carson City; Chuck Weller, Senior Judge.

Stanko argues the district court abused its discretion by denying her the opportunity for diversion pursuant to NRS 176.211. Instead, she was sentenced to 12 to 30 months in prison, her sentence was suspended, and she was placed on probation for a period not to exceed 24 months. She was also referred to mental health court. In support of her argument, Stanko claims the offense synopsis in the presentence investigation report (PSI) that the district court relied on constituted impalpable and highly suspect evidence because the police reports on which the synopsis relied were unreliable.

The granting of diversion is discretionary. *See* NRS 176.211(1); *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) ("The sentencing judge has wide discretion in imposing a sentence . . . .").

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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); *accord Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

Stanko did not argue below that the offense synopsis was impalpable or highly suspect evidence, nor did she object to the district court's use of the offense synopsis. Therefore, we review Stanko's claim for plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018). To demonstrate plain error, an appellant must show "(1) there was 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).

Stanko fails to demonstrate that the district court's consideration of the offense synopsis was error that is plain from a casual inspection of the record. Stanko, who admits she was intoxicated at the time of the crime and is "unclear about certain specifics about the event," merely disputes the details of the crime contained in the offense synopsis. But at the sentencing hearing, the victim related facts similar to those found in the offense synopsis. Stanko's disagreement does not demonstrate that the offense synopsis contained impalpable or highly suspect evidence. Therefore, Stanko fails to demonstrate the district court plainly erred in

considering the offense synopsis contained in the PSI. Accordingly, we conclude the district court did not abuse its discretion by declining to place Stanko in a diversion program, and we

ORDER the judgment of conviction AFFIRMED.

Gibbons, C.J.

Tao, J.

Bulla, J.

cc: First Judicial District Court
Hon. Chuck Weller, Senior Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk