

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20051044-CA	
v.	)		
	)	F I L E D	
Robyn Celeste Hopkins,	)	(December 14, 2006)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2006 UT App 498</td></tr></table>	2006 UT App 498
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Second District, Ogden Department, 041904899  
The Honorable Scott M. Hadley

Attorneys: Randall W. Richards, Ogden, for Appellant  
            Mark L. Shurtleff and Jeffrey S. Gray, Salt Lake  
            City, for Appellee

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Before Judges Davis, McHugh, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record[,] and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under applicable law.

Defendant appeals her sentence, arguing that the trial court should have imposed probation instead of prison terms. "The defendant is not entitled to probation, but rather the court is empowered to place the defendant on probation if it thinks that will best serve the ends of justice and is compatible with the public interest." State v. Rhodes, 818 P.2d 1048, 1051 (Utah Ct. App. 1991). See also State v. Sibert, 6 Utah 2d 198, 310 P.2d 388, 393 (1957) ("Probation is not a matter of right, and this is so no matter how unsullied a reputation one convicted of a crime may be able to demonstrate to the trial judge."). Defendant nonetheless argues that the trial court abused its discretion because it failed to consider all legally relevant factors and imposed an excessive sentence.

Although there were errors in the presentence report, it is clear from the record that the trial court accepted Defendant's corrections to the report. The trial court acknowledged that

Defendant had no prior felony convictions and that the corrected report would recommend only intermediate sanctions. The court allowed Defendant to make a statement, in which she apologized, and allowed her to present mitigating information, including that she never possessed the gun, that she had made positive progress during her jail stay, and that she needed to go through drug treatment and other counseling. Thus, the requirements of rule 22(a) were satisfied. See Utah R. Crim. P. 22(a).<sup>1</sup>

After presentation and consideration of all this information, the trial court sentenced Defendant to two concurrent terms of five years to life, reasoning: "I do think considering everything that I've--that has been presented and that I've read that it's too serious simply for alternative sentencing." Thus, the court balanced the relevant factors presented by Defendant with the objectives of deterrence and punishment, see Rhodes, 818 P.2d at 1051, and determined that a grant of probation was not appropriate given the gravity of the crimes.

Defendant does not argue that the sentence otherwise exceeded that allowed by law, and we do not see that the sentence was in any other respect excessive, illegal, or unfair. Thus, we conclude that the trial court did not abuse its discretion in imposing sentence.

Affirmed.

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Gregory K. Orme, Judge

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WE CONCUR:

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge

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1. Defendant points to State v. Galli, 967 P.2d 930 (Utah 1998), as authority for her claim that the court failed to address certain necessary factors in its probation determination. Galli, however, simply reiterates statutorily prescribed factors to be addressed in a determination of consecutive sentences, which Defendant did not receive. See id. at 938.