

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 79962-2-I
)	consolidated with
Respondent,)	Nos. 79963-1-I, 79964-9-I,
)	and 79965-7-I
v.)	
)	
DANYIELLE MICHELLE SLOTHAUG,)	UNPUBLISHED OPINION
)	
Appellant.)	
_____)	

VERELLEN, J. — Danyielle Slothaug appeals her high end standard range sentence contending the court failed to apply the correct standard to her request for a drug offender sentencing alternative (DOSA). Slothaug does not establish the trial court applied the incorrect standard or otherwise abused its discretion when it denied her request for a DOSA.

Therefore, we affirm.

FACTS

In 2017, the State charged Slothaug with 14 theft-related felonies across four cause numbers. Slothaug pleaded guilty to all 14 felonies. The State recommended a high-end standard range sentence. Slothaug requested a DOSA or a parenting sentencing alternative (PSA). After two sentencing hearings, the court imposed a high-end standard range sentence of 57 months on each count.

Slothaug appeals.

ANALYSIS

I. DOSA

Slothaug contends the trial court abused its discretion when it denied her DOSA request.

Generally, the trial court's decision of whether to grant a sentencing alternative is not reviewable on appeal.¹ But the defendant may challenge the "procedure by which a sentence was imposed."² When a defendant is eligible for a sentencing alternative, the judge must "meaningfully consider whether a sentencing alternative [is] appropriate."³ This includes whether "the offender and the community will benefit" from the alternative sentence.⁴ The sentencing court abuses its discretion when it categorically refuses to consider an alternative sentence for an individual or an entire class of offenders.⁵

Here, the court denied Slothaug's request for either a DOSA or a PSA.

Immediately following the denial, the court stated:

I have to look at your actions, and I also have to look at this baby, who has not really met you, and who has a whole life ahead of her. So I have to look at both of those things. It's not just about you, it is about your family.

¹ State v. Grayson, 154 Wn.2d 333, 338, 111 P.3d 1183 (2005).

² Id.

³ Id. at 343.

⁴ State v. Smith, 118 Wn. App. 288, 292, 75 P.3d 986 (2003) (quoting RCW 9.94A.660(2)).

⁵ Grayson, 154 Wn.2d at 342.

And so I have to try and figure out whether it's worth it for me to take a risk on you and put you into treatment for a long period of time and then, you know, the outpatient treatment that would happen after that. And what does that mean to this little girl who is growing up and maybe doesn't have permanency. So there's so many things that I factor into this decision.^[6]

Slothaug concedes the court's consideration of her child was relevant to the PSA request, but Slothaug contends the court impermissibly considered her child and applied the incorrect legal standard when it denied her DOSA request.

The record contains overwhelming evidence to support the court's denial of Slothaug's DOSA request. At the time of sentencing, Slothaug had an extensive criminal history. Slothaug admitted the court had revoked a previous DOSA. And she started committing the current offenses two months after her release from a previous incarceration.

At the first sentencing hearing, in March 2019, the court continued the hearing "to give Ms. Slothaug a chance to put her money where her mouth is."⁷ The court directed Slothaug "to have a bed date," "to see that you get in there," and "to see that you stay there, and . . . to see how this progresses."⁸ The court wanted "to see whether we appear to be going in the right direction."⁹ By the second sentencing hearing in May 2019, Slothaug had not started treatment.

In State v. Grayson, the sentencing court denied Grayson's request for a DOSA "because of the fact that the State no longer has money available to treat

⁶ Report of Proceedings (RP) (May 6, 2019) at 85.

⁷ RP (Mar. 14, 2019) at 68.

⁸ Id. at 69.

⁹ Id. at 71.

people who go through a DOSA program.”¹⁰ On appeal, our Supreme Court emphasized that the sentencing court did not articulate any other reason for denying the DOSA.¹¹ The court determined the sentencing court abused its discretion even though “there were ample other grounds to find that Grayson was not a good candidate for DOSA.”¹²

Here, unlike Grayson, the court did not indicate the denial of the DOSA was based solely on an inappropriate concern. At both hearings, Slothaug’s defense counsel emphasized the PSA request. In response, the court also emphasized parenting concerns related to the PSA. But at the initial hearing, the court expressly asked Slothaug about her history of relapses: “What about when you did the prior DOSA?” and “Why did you start using again?”¹³ The court decided it needed more information “to see if we appear to be going in the right direction.”¹⁴ The court expressed concern about Slothaug’s commitment to treatment. The court ultimately made its decision about the PSA based on concerns about the child.

A fair reading of the record is that the court’s denial of a DOSA was based on “whether it’s worth it for me to take a risk on you and put you into treatment for a long period of time.”¹⁵ Consistent with Slothaug’s history of relapses, her prior

¹⁰ 154 Wn.2d 333, 337, 111 P.3d 1183 (2005).

¹¹ Id. at 342.

¹² Id.

¹³ RP (Mar. 14, 2019) at 63-64.

¹⁴ Id. at 71.

¹⁵ RP (May 6, 2019) at 85.

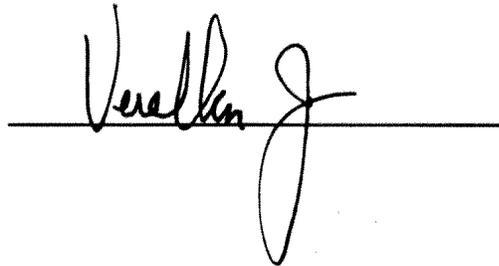
failed DOSA, and her failure to “put her money where her mouth was” by getting a treatment bed in the two months before the continued sentencing hearing, the court applied the correct standard for a DOSA.

We conclude the court did not abuse its discretion.

II. Statement of Additional Grounds

In a statement of additional grounds, Slothaug asks this court to reverse the sentencing court’s denial of her DOSA request. She discusses her long-term drug addiction, her lack of prior long term in-patient treatment, and her belief that she will be successful in treatment. But Slothaug made these same arguments before the sentencing court, and she does not establish that trial court abused its discretion in rejecting these arguments.

Therefore, we affirm.



WE CONCUR:

