

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLAUDE ERIC EPPERSON, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45243

FILED

MAY 25 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rihard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted lewdness with a child under the age of 14. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. Appellant Claude Epperson was sentenced to a prison term of 24-60 months.

By pleading guilty, appellant waived all errors, including the deprivation of constitutional rights that occurred prior to entry of his guilty plea.¹ Epperson contends the district court erred by denying appellant's motion to remand for a preliminary hearing. Additionally, Epperson contends the videotape should have been excluded as grand jury and/or trial evidence. All of these claims have been waived.

The only issue properly discussed before this court is whether the district court erred by considering the Division of Probation and Parole's recommendation that Epperson not receive probation. Epperson contends that there was no evidence the standards set forth in NRS

¹See Tollett v. Henderson, 411 U.S. 258, 267 (1973); Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975).

213.10988 were applied to his case, making it impossible for the district court to comply with NRS 176A.100(3).² We disagree.

Epperson failed to present any evidence to support the proposition that the district court acted improperly. The author of the presentence investigation report was never served with a subpoena, nor was any showing made that the regulations were disregarded. Epperson merely contends that because the regulations were not explicitly written into the report, they must not have been considered. NRS 176.145 provides the required contents of a pre-sentence investigation report. Pursuant to NRS 176.145, there is no requirement that the guidelines referred to in NRS 213.10988 be included in the presentence investigation report.

This court has consistently afforded the district court wide discretion in its sentencing decision.³ This court will refrain from interfering with the sentence imposed "[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."⁴ Epperson has not shown that the district court's consideration of the presentence report was based upon impalpable or highly suspect evidence,

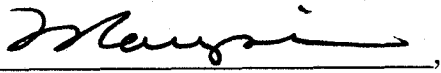
²NRS 176A.100(3): "The court shall consider the standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any, in determining whether to grant probation to a person."

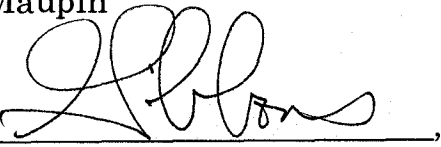
³See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


⁴Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

Therefore we,

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Brent T. Adams, District Judge
Martin H. Wiener
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk