

IN THE SUPREME COURT OF THE STATE OF NEVADA

CESAR ROMERO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51937

**FILED**

**MAR 23 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a plea of no contest, of one count of attempted lewdness with a child under 14 years of age. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge. The district court sentenced appellant Cesar Romero to serve a prison term of 72 to 180 months.

Romero contends that the district court abused its discretion by having a closed mind and “fail[ing] to consider the plethora of mitigating evidence set before the Court” at the sentencing hearing. Accordingly, Romero claims, the sentence imposed by the district court is “unfair as being the result of prejudice, reliance on false or unfounded statements, or unsupported by fact.”

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). 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.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence

within statutory limits is not cruel and unusual punishment where the statute itself is constitutional and the sentence is not so unreasonably disproportionate to the crimes as to shock the conscience. Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

Romero was originally charged with five counts of lewdness with a child under 14 years of age. Pursuant to the plea agreement, he was convicted of one count of attempted lewdness with a child under 14 years of age. At his sentencing hearing, Romero argued for the minimum prison term permitted by statute. Seven witnesses testified to Romero's good character and described him as a kind and gentle man and an excellent father, and three letters attesting to the same were read into the record. The State argued for the prison term in the plea agreement and maintained that any leniency due Romero had already been expressed in the plea agreement. When imposing sentence, the district court acknowledged the number of witnesses who had testified to Romero's good character but concluded nevertheless that the sentence was appropriate under the circumstances: "There's a crime, and there's a consequence. And in my opinion, any leniency in this case was included in the plea deal that you got, okay."

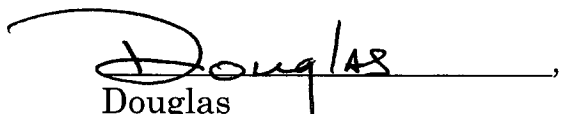
The sentence imposed falls within the parameters provided by the relevant statutes. See NRS 193.330(1)(a)(1); NRS 201.230. Romero has not demonstrated that the district court relied on impalpable or highly suspect evidence, or that it exhibited bias or prejudice against him. Further, our review of the record does not reveal that the judge closed his mind to the presentation of all the evidence. See Cameron v. State, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). Accordingly, we conclude

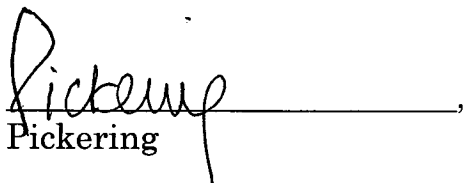
that Romero has failed to demonstrate that the district court abused its discretion at sentencing.

Having considered Romero's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. J. Michael Memeo, District Judge  
Elko County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Elko County District Attorney  
Elko County Clerk