

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM CHAFFEE GREENE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53315

FILED

AUG 25 2009

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY  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 14. First Judicial District Court, Carson City; James Todd Russell, Judge. The district court sentenced appellant William Chaffee Greene to serve a prison term of 48 to 120 months.

Greene contends that the district court abused its discretion at sentencing. Specifically, Greene asserts that his sentence should be vacated because the district court relied on a reference to allegations by other victims in determining Greene's sentence. We disagree.

This court has consistently afforded the district court wide discretion in its sentencing determination. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). "[A] sentencing proceeding is not a second trial, and the court" may consider circumstances and facts that would be inadmissible at trial. Denson v. State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996). We 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).

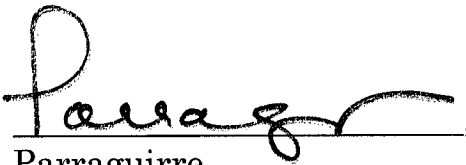
Here, prior to sentencing, Greene’s counsel submitted numerous letters from Greene’s family members to the district court. One letter, authored by Greene’s wife, stated that “[c]harges of a similar nature came to him in Florida in 1984,” and “I learned later of other accusations.”

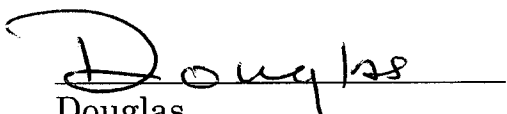
At sentencing, the district court stated that it read all of the letters, and the prosecutor quoted portions of Greene’s wife’s letter. However, Greene’s claim that the district court relied on the references to the other allegations in determining Greene’s sentence is belied by the record. Specifically, the district court stated, “I think there are some insinuations, going back, that you’ve had prior accusations, although they weren’t in any report, and the Court certainly isn’t considering that for any purpose in sentencing.” Further, although the district court imposed a longer sentence than recommended by the Division of Parole and Probation,¹ our review of the record reveals that the district court based its sentencing decision on information contained in the presentence investigation report and the psychological evaluation risk assessment. Finally, we note that the sentence imposed was within the parameters provided by the relevant statutes. See NRS 201.230(2); NRS

¹The sentence imposed was shorter than the sentence sought by the State.

193.330(1)(a)(1). Accordingly, we conclude that the district court did not abuse its discretion in sentencing Greene and, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre J.


Douglas J.


Pickering J.

cc: Hon. James Todd Russell, District Judge
State Public Defender/Carson City
Attorney General Catherine Cortez Masto/Carson City
Carson City District Attorney
Carson City Clerk