

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY DAWON PERRIATT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55293

**FILED**

JUN 09 2010

TRACIE K. LITZEMAN  
CLERK OF SUPREME COURT  
BY *H. Ingersoll*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony child abuse. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant Anthony Dawon Perriatt claims the district court abused its discretion at sentencing by relying on erroneous information regarding his criminal history and by imposing a sentence that was more severe than warranted by the circumstances of his case. This court has consistently afforded the district court wide discretion in its sentencing decision and we will not disturb that decision absent an abuse of discretion. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). The 24 to 60 month sentence is within the statutory limits. See NRS 200.508(1)(b). Although the presentence investigation report overstated the number of prior misdemeanor convictions, we conclude that Perriatt was not prejudiced because the error was corrected at sentencing and the district court clearly based its sentencing decision on the circumstances of the instant offense and the nature of the prior offenses. See Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976) (this court will interfere with a sentence only if the district court relied on facts

supported solely by impalpable or highly suspect evidence). Further, it is within the district court's broad discretion to impose a sentence in excess of that negotiated in the plea agreement and recommended in the presentence investigation report. See, e.g., Collins v. State, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). Finally, a defendant has no right to probation, and it is within the district court's discretion to grant probation. NRS 176A.100(1)(c). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Robert H. Perry, District Judge  
Marc Picker  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk