

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENT LEVON KIMBELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56434

FILED

JAN 13 2011

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of attempted sexual assault. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.


Appellant Kent Levon Kimbell contends that the district court abused its discretion at sentencing by sending him to prison after placing his codefendant on probation. He specifically argues that his sentence was arbitrary and violated his equal protection rights because it was disparate from his codefendant's sentence. We review a district court's sentencing decision for abuse of discretion. Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

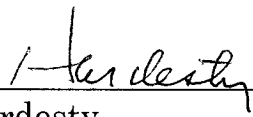
During sentencing, the district court was informed that Kimbell posed a "moderate high risk" to reoffend, was "the ringleader" in this crime, had an egregious juvenile criminal history, threatened the police officers who arrested him, and tried to have the victim harmed after he was jailed. The district court found that Kimbell and his codefendant were not similarly situated and sentenced Kimbell to a prison term of 72 to 180 months.

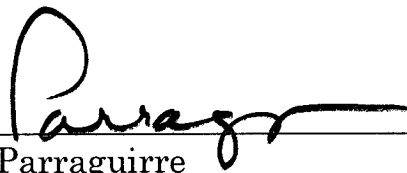
Because the grant of probation is discretionary, "no rule of law requires a court to sentence codefendants to identical terms," Nobles v.

Warden, 106 Nev. 67, 68, 787 P.2d 390, 391 (1990), Kimbell and his codefendant were not similarly situated, see Gaines v. State, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (“The Equal Protection Clause of the Fourteenth Amendment mandates that all persons similarly situated receive like treatment under the law.”), and Kimball’s sentence falls within the parameters of the relevant statutes, see NRS 193.330(1)(a)(1); NRS 200.366(2); 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.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk