

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT WILLIAM LAWVER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59192

FILED

MAR 07 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted lewdness with a child under the age of fourteen years. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.


Appellant Robert William Lawver contends that the district court abused its discretion by refusing to grant his presentence motion to withdraw his guilty plea. NRS 176.165 gives the district court discretion to grant such a motion for any reason that is fair and just. State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). Lawver argues that the hearing on his motion was inadequate because the district court did not consider the totality of the circumstances before denying the motion. Specifically, Lawver contends that the district court failed to look beyond the plea canvass and did not consider his pre-plea canvass anxiety attack. We disagree and conclude that the district court adequately reviewed the record and did not abuse its discretion by denying Lawver's motion to withdraw his guilty plea. Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001); Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

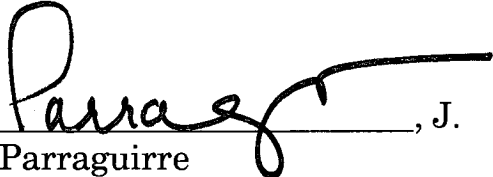
Lawver also contends that the district court abused its discretion at sentencing by refusing to grant probation and imposing a sentence which exceeded the recommendation of the Division of Parole and Probation. Lawver's sentence of 72 to 180 months in prison is within the statutory limits, see NRS 201.230(2); NRS 193.330(1)(a)(1), and he does not allege that the district court relied on "impalpable or highly suspect evidence," Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). Furthermore, it is within the district court's discretion to grant or deny probation, see NRS 176A.100(1)(c), and the district court is not required to follow the recommendations of the Division of Parole and Probation, Collins v. State, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). We conclude that the district court did not abuse its discretion at sentencing.

Having considered Lawver's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk