

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA SCOTT MACDONALD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60066

FILED

JUN 13 2012

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


ORDER OF AFFIRMANCE


This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery with a deadly weapon. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

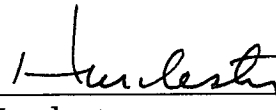
Appellant Joshua Scott Macdonald contends that the district court abused its discretion at sentencing by imposing a prison term rather than probation. This court will not disturb a district court's sentencing determination absent an abuse of discretion. See Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Macdonald has not alleged that the district court relied solely on impalpable or highly suspect evidence or that the sentencing statute is unconstitutional. See Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 489-90 (2009). Further, the granting of probation is discretionary, see NRS 176A.100(1)(c), and Macdonald's prison term of 30-96 months falls within the parameters provided by the relevant statute, see NRS 200.481(2)(e). We conclude that the district

court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Michael Montero, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk