


IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY WAYNE BOWMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61062

**FILED**

**FEB 13 2013**

TRACIE K. 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 robbery. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

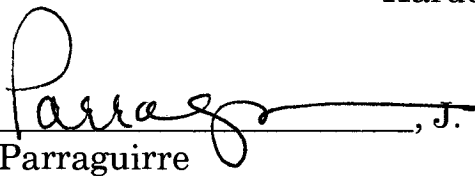
Appellant Timothy Wayne Bowman claims that the district court abused its discretion at sentencing by relying on impalpable or highly suspect evidence. Bowman specifically asserts that the district court improperly relied on the testimony of the owner of the store where the robbery occurred when imposing the sentence. We disagree.

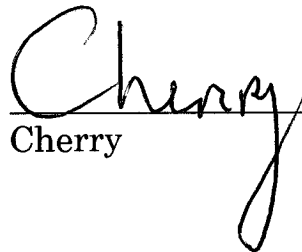
During the sentencing hearing, the district court allowed the store owner to testify and, overruling Bowman's objection, allowed the owner to opine that Bowman should serve three years, even though the owner was not present at the time of the robbery. The district court judge imposed a prison term of 28-72 months, noting that although he struggled with the case, he could not "ignore the fairly significant and potentially lethal environment [Bowman] created" by bringing a loaded gun into a full store. Bowman has failed to demonstrate that the district court abused its discretion by allowing the owner to testify. See NRS 176.015(6). Bowman has also failed to demonstrate that the owner's testimony constituted impalpable or highly suspect evidence or that the district court's sentence

was based solely on impalpable or highly suspect evidence. See Denson v. State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996). We conclude the district court did not abuse its discretion at sentencing, see Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. David A. Hardy, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk