

IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY GILBERTO MARTINEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61704

FILED

MAY 15 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
DEPUTY CLERK

ORDER OF AFFIRMANCE

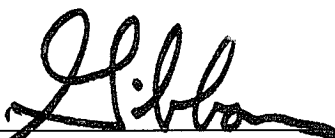
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted sexual assault. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

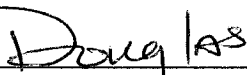
Appellant Henry Gilberto Martinez contends that the district court abused its discretion at sentencing by relying upon the evaluator's opinion in the psychosexual evaluation that he presented a high risk to re-offend. Martinez asserts that the evaluator's opinion of risk was not based on "a currently accepted standard of assessment" as required by NRS 176.139(3) and NRS 176A.110(1)(a) because it was based on his professional opinion rather than the results of the actuarial assessments. Martinez also contends that the district court erred by failing to make specific findings regarding the discrepancy between the evaluator's professional opinion and the results of some of the actuarial assessments.


NRS 176A.110 and NRS 176.139 do not require evaluators to rely solely on actuarial assessments in conducting psychosexual evaluations; an evaluator may also rely on his or her professional opinion. *Blackburn v. State*, 129 Nev. ___, ___, 294 P.3d 422, 426 (2013). Further, although the district court failed to make specific findings regarding the discrepancy between the evaluator's professional opinion and the results

of some of the actuarial assessments, the record supports the district court's implicit conclusion that the evaluator's opinion was based on "currently accepted standards of assessment." NRS 176A.110(1)(a); see *Blackburn*, 129 Nev. at ___, 294 P.3d at 426-27. Accordingly, we conclude that the district court did not abuse its discretion, see *id.* at ___, 294 P.3d at 427, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

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