

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONEL FRANCIS MARTINEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61773

FILED

APR 09 2013

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 no contest plea, of attempted sexual assault and attempted lewdness with a child under the age of fourteen. Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.

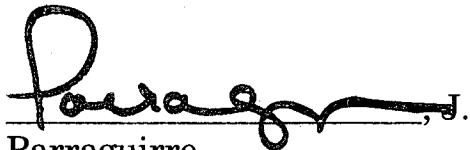
Appellant argues that the district court abused its discretion by sentencing him to serve two concurrent terms of 8 to 20 years in prison given the recommendation contained in the PSI, his background, and the psycho-sexual evaluation. The psycho-sexual evaluation rendered appellant eligible for probation, and the PSI recommended two concurrent 2 to 8 year sentences be suspended. Appellant, who had no previous criminal record, would have been gainfully employed if granted probation.

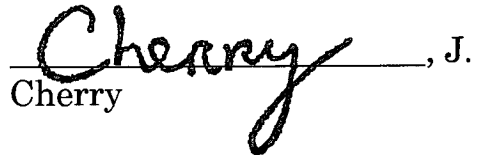
The sentencing court is afforded considerable discretion in imposing a sentence; the district court's determination will not be disturbed absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Appellant does not claim that the district court relied on impalpable or highly suspect evidence. See Silks v. State, 92

Nev. 91, 94, 545 P.2d 1159, 1161 (1976). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Alvin R. Kacin, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk