

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY ERIC GARZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63079

FILED

SEP 18 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 possession of stolen property. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

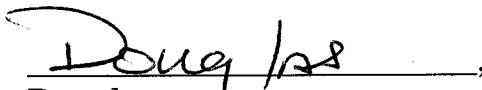
Appellant Bobby Eric Garza contends that the district court abused its discretion by declining to suspend his prison term of 14 to 36 months and place him on probation. He also asserts that the minimum sentence should be 12 months, in accordance with the Division of Parole and Probation's sentence recommendation selection scale. We disagree.

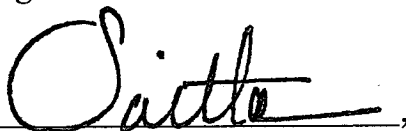
Garza's sentence is within the statutory limits, *see* NRS 193.130(2)(c); NRS 205.275(2)(b), and it is within the district court's discretion to deny probation, NRS 176A.100(1)(c), or impose a sentence different from that recommended by the Division, *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). To the extent Garza contends that the district court abused its discretion by relying on a probation probability success sheet "obviously completed incorrectly" by the Division, we disagree. Garza fails to demonstrate that the Division incorrectly filled out the sheet. Moreover, the record does not reflect that the district court relied solely on the sheet when imposing Garza's sentence. *See Denson v.*

State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996) (this court will reverse a sentence if it is supported solely by highly suspect and impalpable evidence). Accordingly, we

ORDER the judgment of conviction AFFIRMED.¹


Gibbons, J.


Douglas, J.


Saitta, J.

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

¹Although we filed the fast track briefs submitted by the parties, they fail to comply with the Nevada Rules of Appellate Procedure. Neither brief contains 1-inch margins on all four sides and the fast track statement is not double-spaced. See NRAP 3C(h)(1); NRAP 32(a)(4). Counsel for the parties are cautioned that the failure to comply with all applicable rules in the future may result in the imposition of sanctions. See NRAP 3C(n).