

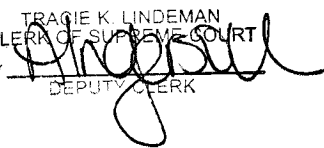
IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWIN HUMBERTO REYES-
VASQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63700

FILED

NOV 13 2013

TRAGIE 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 burglary. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellant argues that the district court abused its discretion by sentencing him to prison rather than deferring sentencing and sending him to a regimental discipline program. Pursuant to the plea agreement, the State and appellant agreed to recommend that appellant be sentenced to a regimental discipline program, and, if appellant successfully completed the program, the State would allow him to withdraw his plea and plead guilty to conspiracy to commit burglary, a gross misdemeanor. During sentencing, the district court indicated that the recommendation was "an appropriate outcome" and rejected appellant's entreaty for probation. The district court was also aware of appellant's lengthy juvenile criminal record and his gang association. Noting appellant's reluctance to attend a regimental disciplinary program, the district court queried him about his commitment to completing such a program should he be given the opportunity and expressed its unwillingness to send appellant to a program if he was not inclined to "wholeheartedly make an

effort.” Appellant responded, “I don’t know what to say.” The district court then sentenced him to 12 to 36 months in prison. Appellant argues that the district court’s sentence was the result of frustration with his attitude at the sentencing hearing.

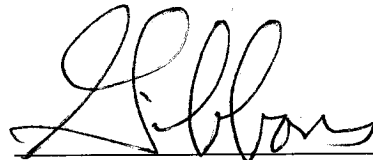
We have consistently afforded the district court wide discretion in its sentencing decision, *see, e.g., Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and will refrain from interfering with the sentence imposed by the district court “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence,” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). Although the district court may have been stern with appellant during sentencing, we reject his contention that the district court sentenced him to a prison term rather than probation out of frustration with his attitude. We therefore conclude the district court did not abuse its discretion.

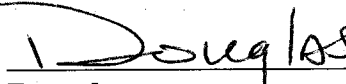
Appellant next argues that his judgment of conviction is void because his plea was a “quasi-conditional” plea that permitted him to attend a regimental discipline program before sentencing to earn the opportunity to plead guilty to a misdemeanor upon successful completion of the program. He contends that because he “never went to boot camp, the district court abused its discretion when sentencing [him] to prison immediately without the chance to prove his success.” Appellant’s participation in a program was an agreed-upon recommendation between the State and him as to sentencing, not a condition of his plea. And the guilty plea agreement advised appellant that the district court was not bound by the agreement and that “the matter of sentencing is to be

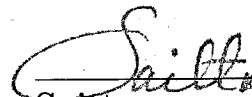
determined by the Court.” We therefore conclude that appellant’s contention lacks merit.

Having considered appellant’s arguments and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.¹


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Brent T. Adams, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹Despite counsel’s verification that the fast track response complies with applicable formatting requirements, the fast track response does not comply with NRAP 32(a)(4) because it is not double-spaced. See NRAP 3C(h)(1). We caution counsel that future failure to comply with the Nevada Rules of Appellate Procedure when filing briefs with this court may result in the imposition of sanctions. See NRAP 3C(n); NRAP 28.2(b).