

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK SIOSON ENRIQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63939

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of obtaining and/or using the personal identification information of another. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Appellant Mark Sioson Enriquez contends that the district court abused its discretion at sentencing by failing to follow the parties' and the Division of Parole and Probation's recommendations that his sentence be imposed to run concurrently with the sentences in his other cases. We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009).

Enriquez's 72- to 180-month prison sentence falls within the parameters of the relevant statute, *see* NRS 205.463(1), he has not demonstrated that the district court relied solely upon impalpable evidence, *see Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996), and he has not shown that the district court erred by imposing his sentence to run consecutive to the sentences in his other crimes, *see* NRS 176.035(2). Furthermore, the district court's sentencing discretion is not bound by the terms of a plea agreement, *see generally Van Buskirk v.*

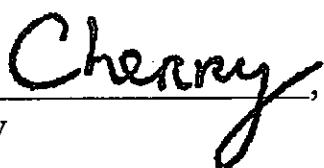
State, 102 Nev. 241, 244, 720 P.2d 1215, 1217 (1986), and it is not required to follow the sentencing recommendations of the State or Division of Parole and Probation, see *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). Accordingly, we conclude that Enriquez has failed to demonstrate that the district court abused its discretion at sentencing.

To the extent that Enriquez also contends that his sentence constitutes cruel and unusual punishment, we conclude that his contention lacks merit. See *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion); *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (observing that “[a] sentence within the statutory limits is not cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience” (internal quotation marks omitted)).

Having concluded that Enriquez is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

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