

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NEHEMIAH GIPSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65987

**FILED**

FEB 04 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to an *Alford* plea,<sup>1</sup> of two counts of attempted lewdness with a child under the age of 14. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant asserts that the district court abused its discretion at sentencing by ignoring mitigating evidence, disregarding the psychosexual evaluation report, and imposing the maximum-allowable sentence. Appellant also asserts that the district court penalized him for his decision to enter into an *Alford* plea.


The district court has wide discretion in its sentencing decision. See *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We 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).


<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970).

At the beginning of the sentencing hearing, the district court acknowledged that the psychosexual evaluation report indicated that appellant posed a low-to-moderate risk to reoffend. After hearing the impact statements given by the victims, the victims' mother and grandmother, and another individual, the district court sentenced appellant to serve two consecutive terms of 96-240 months.

Although the sentence imposed is the maximum-allowable sentence, it is within the parameters provided by the relevant statutes, *see* NRS 193.330(1)(a); NRS 201.230(2), and appellant does not allege that those statutes are unconstitutional. The record does not demonstrate that the district court relied on impalpable or highly suspect evidence. Further, the record does not demonstrate that the district court imposed the sentence to penalize appellant for entering an *Alford* plea. Having considered the sentence and the crime, we conclude the district court did not abuse its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Stefany Miley, District Judge  
Mayfield, Gruber & Sheets  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk