

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO EDGAR LEMUS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67246

FILED

APR 14 2015

TRADIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery with the use a deadly weapon and assault with the use of a deadly weapon. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant Antonio Lemus claims that the district court abused its discretion by sentencing him to a prison term without reasonably considering probation. We disagree.

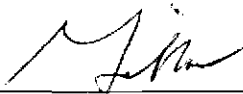
The granting of probation is discretionary. See NRS 176A.100(1)(c); see generally *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) (“The sentencing judge has wide discretion in imposing a sentence . . .”). This court will refrain from interfering with the sentence imposed “[s]o long as 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).


Before imposing sentence, the district court considered Lemus’ lack of prior criminal history; his good family support, employment, and health; the facts of the crime; and the purposes of sentencing. The district

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court sentenced Lemus to concurrent terms of imprisonment totaling 24-72 months. The sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 200.471(2)(b), NRS 200.481(2)(e)(1), and Lemus does not allege that the district court relied on palpable or highly suspect evidence. The record does not support Lemus' claim that the district court did not reasonably consider his request for probation. Considering the violent nature of the crime, we are not convinced that the district court abused its discretion in declining to suspend the sentence and place Lemus on probation. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Patrick Flanagan, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk