

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATHION ROBERT LEWIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67313

FILED

AUG 05 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 a no contest plea, of battery by means of strangulation. Fourth Judicial District Court, Elko County; Dan Papez, Judge.


Appellant Nathion Lewis asserts the district court abused its discretion at sentencing by denying his request for probation and instead imposing a term of imprisonment. He asserts his request for probation was reasonable because he had a job prospect and a place to live at the time of sentencing, he has five children whom he wishes to help raise, and he showed contrition for his actions.

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).

The sentence imposed in this case is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(c); NRS 200.481(2)(b), and Lewis does not allege that the district court relied on impalpable or highly suspect evidence. Here, Lewis terrorized his wife by threatening her with text messages that something was going to happen. Lewis then hid in his wife's van and, as she entered the van, he grabbed her from behind and strangled her. The district court noted Lewis' criminal history began in 1998, since that time Lewis amassed 10 convictions, and his criminal history was marked by violence. Considering the facts of the case and Lewis' criminal history, we conclude the district court did not abuse its discretion in declining to suspend the sentence and place Lewis on probation. Accordingly, we

ORDER the judgment of conviction **AFFIRMED**.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Chief Judge, Fourth Judicial District Court
Dan Papez, Senior Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk