

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN CERVANTES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67439

**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 guilty plea, of two counts of attempted sexual assault. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.


Appellant John Cervantes claims the district court abused its discretion by imposing consecutive sentences. Cervantes asserts that under NRS 176.035(1) the default sentence in Nevada is for concurrent sentences and therefore, consecutive sentences should only be imposed in rare circumstances. He further asserts that the imposition of consecutive terms of 96-240 months was greater than necessary to accomplish general sentencing goals.


It is within the district court's discretion to impose consecutive sentences. See NRS 176.035(1); *Pitmon v. State*, 131 Nev. \_\_\_, \_\_\_, \_\_\_ P.3d \_\_\_, \_\_\_ (Ct. App, Adv. Op. No. 16, March 26, 2015); *Warden v. Peters*, 83 Nev. 298, 303, 429 P.2d 549, 552 (1967). 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 . . ."). And NRS 176.035(1) does not restrict the district court's ability to impose consecutive sentences. *Pitmon*, 131 Nev. at \_\_\_, \_\_\_ P.3d at \_\_\_ (Ct. App, Adv. Op. No. 16, March

26, 2015, at 7). 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 district court noted that Cervantes was assessed as a high risk to reoffend and concluded that Cervantes was a menace and posed a serious risk to the community. The district court rejected Cervantes’ request for the minimum possible sentence for each count and instead imposed the maximum possible sentence, consecutive terms of 96 to 240 months, *see* NRS 193.330(1)(a)(1); NRS 200.366. The sentence imposed is within the parameters provided by the relevant statutes and we conclude the district court did not abuse its discretion in imposing consecutive sentences.

ORDER the judgment of conviction AFFIRMED.

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

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

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

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