

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVE GERALD BUTLER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67671

**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 conviction, entered pursuant to a guilty plea, of driving under the influence of alcohol, third or subsequent offense. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

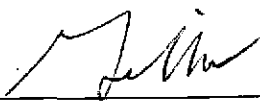
On appeal, appellant Steve Butler claims the district court abused its discretion at sentencing because the district court stated it did not believe the State had reviewed Butler's poor history of supervision prior to making the plea offer and binding itself to recommend a sentence of 24 to 60 months.

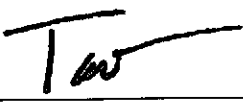
The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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).


The district court rejected the parties' joint sentencing recommendation of 24 to 60 months and imposed a term of 26 to 120

months. While the district court made the statement it did not believe the State had all of the information at the time of negotiations, it appears the real reason the district court departed upwards from the recommendation of the parties is because of Butler's long history of drinking and driving and his failure at supervision. The district court specifically stated, "Because of your past performance on supervision, I have no confidence that, if you're released, you won't drink and drive. I don't want you to. And I don't dislike you. But the fact is that you're a danger." Therefore, we conclude the district court did not abuse its discretion when imposing sentence, and we

ORDER the judgment of conviction AFFIRMED.

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

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

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

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