

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY JAMES DELACORTE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68334

FILED

NOV 19 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 trafficking in a controlled substance and possession of a stolen motor vehicle. First Judicial District Court, Carson City; James E. Wilson, Judge.

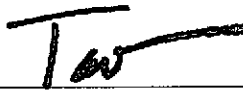
Appellant Anthony James Delacorte argues the district court abused its discretion by basing its sentencing decision on an erroneous recommendation contained in the presentence investigation report (PSI). Delacorte argues the PSI drafter incorrectly double scored a number of the factors when calculating the sentencing recommendation. We review a district court's sentencing decision for abuse of discretion. *See Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). A sentencing "court is privileged to consider facts and circumstances which clearly would not be admissible at trial." *Silks v. State*, 92 Nev. 91, 93-94, 545 P.2d 1159, 1161 (1976). We "will reverse a sentence if it is supported *solely* by impalpable and highly suspect evidence." *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996) (emphasis in original).

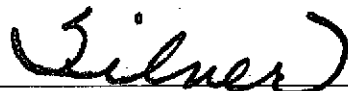
Our review of the record reveals the district court did not base its sentencing decision on impalpable or highly suspect evidence. At the

sentencing hearing, Delacorte argued the PSI recommendation was erroneous. In response, the district court explained it independently reached its sentencing decision based on Delacorte's lengthy criminal history and the large amount of drugs he had in his possession. The district court stated it only reviewed the PSI sentencing recommendation to ensure his independent sentencing decision was not "way out of line" with that recommendation. Moreover, Delacorte's sentences fall within the parameters of the relevant statutes.¹ See NRS 193.130(c); NRS 205.273(3); NRS 453.3385(2). We therefore conclude Delacorte does not demonstrate the district court abused its discretion when imposing his sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹Delacorte was sentenced to serve a term of 6 to 15 years for the trafficking in a controlled substance count and a concurrent term of 1 to 3 years for the possession of a stolen motor vehicle count.

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk