

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DERRIK BERISTAIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68983

FILED

FEB 17 2016

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of two counts of attempted lewdness with a child under 14 years of age. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Appellant Derrik Beristain claims the district court abused its discretion at sentencing by imposing his two 57- to 144-month prison terms to run consecutively instead of running them concurrently as requested by the State and recommended by the Division of Parole and Probation. Beristain also asserts the district court did not make factual findings in support of its sentencing decision.

We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Beristain's sentence falls within the parameters of the relevant statutes. *See* NRS 193.330(1)(a)(1); NRS 201.230(2). Beristain has not demonstrated that the district court erred by imposing these sentences to run consecutively. *See* NRS 176.035(1). And the record does not suggest the district court's sentencing decision was based on impalpable or highly

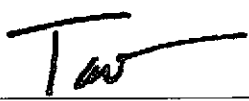
suspect evidence. *See Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).


Furthermore, the district court's sentencing discretion is not bound by the terms of a plea agreement. *See generally Van Buskirk v. State*, 102 Nev. 241, 244, 720 P.2d 1215, 1217 (1986). The district court is not required to follow the sentencing recommendations of the State or Division of Parole and Probation. *See Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). And the district court is not required to state its reasons for imposing a sentence. *Campbell v. Eighth Judicial Dist. Court*, 114 Nev. 410, 414, 957 P.2d 1141, 1143 (1998).

For the foregoing reasons, we conclude Beristain has failed to demonstrate the district court abused its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Michael Montero, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk