

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TRAMELL SHONTA LEWIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69658

FILED

AUG 17 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of two counts of ownership or possession of a firearm by a prohibited person. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Appellant Tramell Lewis claims the district court abused its discretion by imposing consecutive sentences because the Division of Parole and Probation recommended concurrent sentences, his first trial ended with a hung jury, the guilty verdicts in his second trial were based on weak and circumstantial evidence, and the district court's sentencing decision was likely influenced by the first trial and a perceived sign of disrespect towards a witness during the second trial. Lewis argues "when a case is weak and circumstantial, and a mistrial has resulted in the reduction of charges, concurrent sentences should be imposed unless the [district court] specifies reasons for the consecutive sentence[s]."

The district court has discretion to impose consecutive sentences. See NRS 176.035(1); *Pitmon v. State*, 131 Nev. ___, ___, 352 P.3d 655, 659 (Ct. App. 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


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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 falls within the parameters of the relevant statutes, *see* NRS 176.035(1); NRS 202.360(1), Lewis has not demonstrated the sentence was based on impalpable or highly suspect evidence,¹ and the district court was not required to follow the Division of Parole and Probation’s sentencing recommendation or to state its reasons for imposing consecutive sentences, *see Campbell v. Eighth Judicial Dist. Court*, 114 Nev. 410, 414, 957 P.2d 1141, 1143 (1998); *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹Lewis failed to provide a transcript of his sentencing hearing for our review. *See Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) (“The burden to make a proper appellate record rests on appellant.”).

cc: Hon. William D. Kephart, District Judge
Kenneth G. Frizzell, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk