

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE ESCOBEDO-GUEVARA,

No. 36484

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

MAY 30 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of lewdness with a child under the age of 14 years. The district court sentenced appellant to life in prison with the possibility of parole after 10 years. The district court further ordered that upon his release from prison, appellant will be subject to lifetime supervision. Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

Appellant's sole contention is that this matter must be remanded for a new sentencing hearing before a different judge because the district court failed to exercise its discretion at sentencing. In particular, appellant suggests that the district court may not have understood that it had discretion to grant probation based on a favorable psychosexual evaluation even though the parties had stipulated to a life sentence as part of the plea agreement. We conclude that appellant's contention lacks merit.


This court has consistently afforded the district court wide discretion in its sentencing decision.¹ Accordingly, we will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate

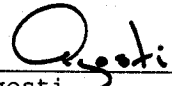
¹See, e.g., Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."²

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence. The sentence imposed is within the parameters provided by the relevant statute.³ Moreover, pursuant to NRS 176A.110(1), the district court had discretion to grant probation based on the favorable psychosexual report. The record indicates that the district court understood that it had discretion to grant probation based on the favorable report even though the parties had stipulated to a prison term. Additionally, before imposing sentence, the district court judge indicated that he had reviewed the psychosexual report and material related to it and the presentence report and that he had "carefully considered all the materials received by the [c]ourt." Accordingly, there is nothing in the record to suggest that the district court did not understand its discretion at sentencing. We therefore conclude that appellant's contention lacks merit, and we

ORDER the judgment of conviction AFFIRMED.


Shearing J.


Agosti J.


Rose J.

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

³See NRS 201.230.

cc: Hon. Brent T. Adams, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk