

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAVIER ANGEL SALDANA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

JAVIER ANGEL SALDANA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72412

FILED

AUG 16 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK
No. 72417 ✓

ORDER OF AFFIRMANCE


Docket No. 72412 is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted possession of a controlled substance entered in district court case number CR16-1961. Docket No. 72417 is an appeal from a judgment of conviction, pursuant to a guilty plea, of escape and unlawful taking of a motor vehicle entered in district court case number CR16-0430. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.


Javier Angel Saldana argues the district court abused its discretion when it imposed consecutive, maximum sentences for each crime and it had improperly precommitted itself to doing so. We review a district court's sentencing decision for abuse of discretion, and we will not interfere with a sentence that was not "founded on facts supported only by impalpable or highly suspect evidence." *Chavez v. State*, 125 Nev. 328,


348, 213 P.3d 476, 490 (2009) (quoting *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976)).

Saldana's plea agreements reflect the parties agreed all sentences would run consecutive to one another. At his sentencing hearing, Saldana's counsel requested the court impose the maximum sentence for each count, suspend the sentences, and place him on probation with an opportunity to reenter a drug treatment program. The district court denied the request for probation and imposed three consecutive sentences of 364 days. The record demonstrates that the district court's decision did not stem from any implied promise at Saldana's guilty plea hearing in district court case number CR16-0430, but rather that it was based on Saldana's status as a "fugitive from justice." Saldana thus fails to demonstrate the district court abused its discretion. See NRS 176.035(1) (permitting the district court to run sentences concurrently or consecutively); NRS 176A.100(1)(c) (permitting the district court to grant probation for gross misdemeanors); *Pitmon v. State*, 131 Nev. ___, ___, 352 P.3d 655, 659 (Ct. App. 2015) ("[D]istrict courts [have] discretion in determining whether . . . sentences should be imposed consecutively or concurrently."). Accordingly, we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Scott N. Freeman, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney/Civil Division
Washoe District Court Clerk