IN THE SUPREME COURT OF THE STATE OF NEVADA

SANTOS MARIO LEDESMA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 36625

FILED

MAR 07 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 an Alford plea,[1] of one count of attempted lewdness with a child under the age of 14. The district court sentenced appellant to a prison term of 28 to 72 months. The district court further imposed a sentence of lifetime supervision.

Appellant first contends that the district court violated appellant's Fifth Amendment right against self-incrimination. Specifically, appellant argues that the district court sentenced appellant more harshly because appellant refused to admit that he committed the crime charged. We note, however, that the district court asked appellant whether he committed the crime because the district court was concerned that appellant's refusal to accept responsibility for his actions put him at higher risk to re-offend. In questioning appellant, the district court was trying to establish appellant's potential for rehabilitation and fashion an appropriate sentence. The district court is able "to consider a wide, largely unlimited variety of information to insure that the punishment fits not only the crime, but also the individual defendant."[2] We therefore conclude that appellant's contention is without merit.

Appellant also contends that the district court abused its discretion by refusing to grant probation. This court has consistently afforded the district court wide discretion in its

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[1]North Carolina v. Alford, 400 U.S. 25 (1970).

[2]Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998).

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sentencing decision.[3] 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."[4] Moreover, "a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional."[5]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.[6] Moreover, the granting of probation is discretionary.[7]

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

Young, J.

Rose, J.

Becker, J.

cc: Hon. Lee A. Gates, District Judge
Attorney General
Clark County District Attorney
Scott L. Bindrup
Clark County Clerk

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[3]See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

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

[5]Griego v. State, 111 Nev. 444, 447, 893 P.2d 995, 997-98 (1995) (citing Lloyd v. State, 94 Nev. 167, 170, 576 P.2d 740, 742 (1978)).

[6]See NRS 201.230; NRS 193.330(1)(a)(1).

[7]See NRS 176A.100(1)(c).



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