

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY JOSEPH TURNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72923

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE


Timothy Joseph Turner appeals from a judgment of conviction, entered pursuant to a guilty plea, of driving under the influence with a prior felony driving-under-the-influence conviction. First Judicial District Court, Carson City; James Todd Russell, Judge.


Turner claims the district court abused its discretion at sentencing because it sentenced him to a greater sentence than that recommended by the Division of Parole and Probation. Specifically, he claims the district court should have sentenced him to 32 to 84 months, which was the sentence recommended by the Division, because Turner had never previously been afforded the opportunity for treatment or for diversion for driving under the influence.

The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere with the sentence imposed by the district court “[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).

We conclude the district court did not abuse its discretion at sentencing. Turner failed to demonstrate the district court relied on information or accusations founded on facts supported only by impalpable or highly suspect evidence. Further, Turner's sentence of 60 to 150 months was within the parameters provided by the relevant statute. See NRS 484C.410(1). Finally, the district court does not abuse its discretion by imposing a sentence in excess of that suggested by the Division. See *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk