

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL EDWIN MILLER, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73637

**FILED**

JUN 13 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

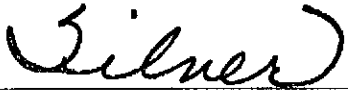
Michael Edwin Miller, Jr., appeals from a judgment of conviction entered pursuant to a guilty plea of attempted lewdness on a child under the age of fourteen years. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

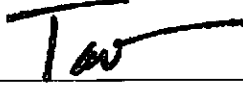
Miller claims the district court failed to consider the gestalt of his life during the sentencing hearing. He argues the district court was provided with “a review of [his] life, his youth, the family dynamics, his poverty, his lack of education, his lack of criminal history, and [his] mental health concerns,” but it only considered his youth as a mitigating factor. He asserts his case should be remanded for a new sentencing hearing.

We review a district court’s sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Miller’s 96- to 240-month prison term falls within the parameters of the relevant statutes. *See* NRS 193.330(1)(a)(1); NRS 201.230(2). And the record does not suggest the district court’s sentencing decision was based on impalpable or highly suspect evidence. *See Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

Moreover, the record demonstrates the district court considered the parties' sentencing arguments, Miller's allocution, the testimony and letters presented on Miller's behalf, the psychologist's psychosexual evaluation and risk assessment, and the Division of Parole and Probation's presentence investigation report. The district court found Miller's youth to be the only significant mitigating factor. The district court further found Miller chose to commit the crime, the risk he would commit similar crimes in the future was too great, and the best way to protect the victim and the community was to place him in prison. Based on this record, we conclude the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Lynne K. Simons, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk