

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHELLE ROSE TRUDEAU,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73313

FILED

MAY 22 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Michelle Rose Trudeau appeals from a judgment of conviction entered pursuant to a guilty plea of battery with the use of a deadly weapon causing substantial bodily harm. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.


Trudeau argues the district court abused its discretion at sentencing. Trudeau asserts the district court improperly based its sentencing decision upon the victim's mother's statements at the sentencing hearing indicating her belief that Trudeau intentionally ran her son over with a car because her son was not romantically interested in Trudeau. Trudeau argues these statements were improper because the victim's mother did not personally witness the incident, the victim stated he had not interacted with Trudeau on the night of the incident, and the evidence showed the incident was an accident rather than an intentional act.

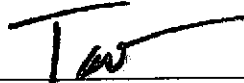
We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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).

The record reveals the district court listened to the arguments of both parties, the victim impact statements, and discussed the facts of the case. The district court found that a review of the facts in this matter demonstrated the incident was not an accident and Trudeau intended to harm the victim. The district court concluded a prison term of 48 to 120 months was the appropriate sentence, which was within the parameters provided by the relevant statutes. See NRS 200.481(2)(e)(2). Moreover, the decision to deny Trudeau’s request for probation was within the district court’s discretion. See NRS 176A.100(1)(c). Trudeau fails to demonstrate the district court relied upon impalpable or highly suspect evidence when imposing sentence. See *Randell v. State*, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993) (“The district court is capable of listening to the victim’s feelings without being subjected to an overwhelming influence by the victim in making its sentencing decision”). Based on the record before this court, we conclude the district court did not abuse its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Robert W. Lane, District Judge
Gary A. Modafferi
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk