

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MANUEL DEZARIO CASTILLO, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69450

FILED

MAY 17 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of unlawful possession of a controlled substance for sale. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Appellant Manuel Castillo, Jr., claims the district court abused its discretion at sentencing by not granting him probation because he was contrite, he had secured employment and moved to Elko, and his conviction was for marijuana—not methamphetamine.

The granting of probation is discretionary, NRS 176A.100(1)(c), and we 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,” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

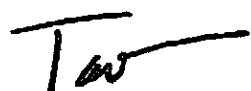
Castillo’s sentence of 19 to 48 months in prison falls within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(d); NRS 453.337(2)(a), and he does not allege the district court relied on impalpable or highly suspect evidence. In rendering its sentencing decision, the district court informed Castillo “[t]his is a case in which you


were selling drugs, and, regardless of your age, with your prior felony convictions and the offenses for which you plead guilty, I don't find today that [you are] an appropriate candidate for community supervision." We conclude the district court did not abuse its discretion by declining to suspend the sentence and place Castillo on probation.

Castillo also claims the State should be sanctioned pursuant to NRAP 4(b)(5)(C) for failing to prepare the judgment of conviction within 10 days after sentencing as required by NRAP 4(b)(5)(A). Castillo suggests an appropriate sanction would be to void his judgment of conviction. However, Castillo has not alleged or demonstrated he was prejudiced by the untimely entry of the written judgment of conviction, and we conclude the sanction he seeks is unwarranted.

Having concluded Castillo is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Michael Montero, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk