

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN EDWARD KIRBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77748-COA

FILED

SEP 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

No. 77749-COA

JOHN EDWARD KIRBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

JOHN EDWARD KIRBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77759-COA

ORDER OF AFFIRMANCE


These are consolidated appeals from judgments of conviction entered pursuant to guilty pleas. In district court case number CR18-0089 (Docket No. 77748-COA), John Edward Kirby was convicted of burglary and sentenced to a prison term of 28 to 72 months. In district court case number CR18-0091 (Docket No. 77749-COA), Kirby was convicted of grand larceny, property value \$3,500 or greater, and possession of a stolen motor vehicle, property value \$3,500 or greater, and he was sentenced to an aggregate prison term of 56 to 144 months. In district court case number CR17-2061 (Docket No. 77759-COA), Kirby was convicted of conspiracy to violate the

Uniform Controlled Substances Act and sentenced to a prison term of 19 to 48 months. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

Kirby claims the district court abused its discretion at sentencing by failing to consider probation as a sentencing option. Although the district court did not specifically state that it had considered and rejected probation as a sentencing option, the record demonstrates the district court was aware that it could suspend Kirby's sentence and place him on probation. The district court imposed the sentence the parties jointly recommended. Given these circumstances, we conclude Kirby has failed to demonstrate the district court abused its discretion when imposing sentence, and we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. David A. Hardy, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk