

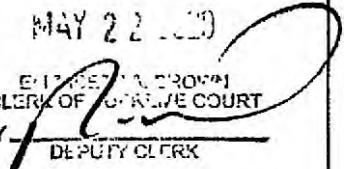
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALFREDO GONZALEZ PUENTES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79155-COA

FILED

MAY 22 2010

ELIZABETH A. CROWM
CLERK OF APPELLATE COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Alfredo Gonzalez Puentes appeals from a judgment of conviction entered pursuant to a plea of no contest to attempted sexual assault. Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.

Puentes claims the district court abused its discretion at sentencing by imposing a term of imprisonment. He argues the district court appears to have given little consideration to the objective factors that supported granting probation. And he names those factors as the psychosexual evaluation, which showed he presented a lower risk to reoffend; the presentence investigation report, which recommended probation; and the testimony and letters of support from family and friends, which showed he was of good character and presented a low risk.

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 district court's decision to grant probation is discretionary. NRS 176A.100(1)(c).

Here, Puentes does not allege the district court relied on impalpable or highly suspect evidence. Puentes' sentence of 30 to 96 months in prison falls within the parameters of the relevant statutes. See NRS 193.330(1)(a)(1); NRS 200.366(2). And the district court was not required to follow the sentencing recommendations of the Division of Parole and Probation. See *Durham v. State*, 134 Nev. 563, 569, 426 P.3d 11, 15 (2018).


Moreover, the district court explained its reason for imposing a term of imprisonment. It stated,

I considered all of the testimony. I read the presentence report in its entirety, the psychosexual evaluation, the victim impact statements of [the victim] and his mother, and after considering all of those factors, I find that probation is not appropriate in this case. The harm to [the victim] has been great, and there is a price to pay for that, and that price is going to prison.

Based on this record, we conclude the district court did not abuse its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Nancy L. Porter, District Judge
Lockie & Macfarlan, Ltd.
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk