

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STACIE LAOSHIE BOWERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79542-COA

FILED

OCT 16 2020

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

ORDER OF AFFIRMANCE

Stacie Laoshie Bowers appeals from a judgment of conviction, entered pursuant to a guilty plea, of burglary while gaining possession of a firearm. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

First, Bowers contends the district court abused its discretion at sentencing by relying on impalpable or highly suspect evidence. She argues the district court recited an incorrect theory of liability for the crime and misunderstood her criminal history. "A district court is vested with wide discretion regarding sentencing," and "[f]ew limitations are imposed on a judge's right to consider evidence in imposing a sentence." *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996). However, "this court will reverse a sentence if it is supported *solely* by impalpable and highly suspect evidence." *Id.*

The district court referenced the theory of liability that the State alleged in the amended information and Bowers acknowledged in her

guilty plea agreement.¹ Also, the district court overstated the violent nature of Bowers' criminal history. Neither of these factors appears to have been the basis for the sentence. The district court stated it based its sentencing decision upon the aggravated nature of this offense in addition to Bowers' poor programming and performance in prior probations. Therefore, we conclude the district court did not abuse its discretion.

Second, Bowers claims the district judge erred in failing to recuse himself for bias at sentencing. A district court's impartiality is reviewed de novo based on the uncontested facts. *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011). Whether a judge should recuse himself is an objective inquiry, focusing on whether "a reasonable person, knowing all the facts, would harbor reasonable doubts about [the judge's] impartiality." *Id.* We presume a district judge is impartial, and therefore, Bowers has the burden of demonstrating disqualification was warranted. *See id.* at 51, 247 P.3d at 272. Additionally, "remarks of a judge made in the context of a court proceeding are not considered indicative of improper bias or prejudice unless they show that the judge has closed his or her mind to the presentation of all the evidence." *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

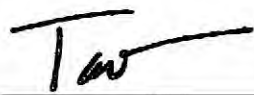
Bowers argues the district judge was biased because he was a former prosecutor and thanked the victim for not using deadly force. There is no indication in the record that the judge held any bias against Bowers as a result of his former career choice. Remarks to the victim about the

¹Bowers does not challenge the validity of her guilty plea.

decision to use deadly force, made in the context of a court proceeding, do not show the district judge had closed his mind to the presentation of all the evidence. Therefore, we conclude Bowers has failed to demonstrate the district judge was required to recuse himself from presiding over this case. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Egan K. Walker, District Judge
Law Offices of Lyn E. Beggs, PLLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk