

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONALD DALE ALLEN, II,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79081-COA

FILED

NOV 09 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Donald Dale Allen, II, appeals from a judgment of conviction entered pursuant to a guilty plea of three counts of burglary. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

Allen argues the district court abused its discretion at sentencing by considering police reports and a handwritten note that were not filed in the record for this case. Allen also contends that the district court improperly considered information indicating that Allen may have committed additional crimes.

The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[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).


At the sentencing hearing, the district court heard the arguments of the parties. The State urged the district court to consider the police reports concerning this matter, and the district court agreed to do so. The record demonstrates that the handwritten note was introduced by Allen

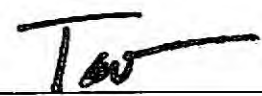
20-40801

because it concerned the counseling he received prior to sentencing and the district court informed the parties that it considered that note when weighing the appropriate sentence. Under the circumstances in this case, Allen fails to demonstrate that the district court erred by considering the police reports or the handwritten note at the sentencing hearing. See *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996) (noting “[f]ew limitations are imposed on a judge’s right to consider evidence in imposing a sentence” and “[p]ossession of the fullest information possible concerning a defendant’s life and characteristics is essential” when imposing sentence).

In addition, the district court noted that there were facts that could create an inference that Allen had been involved in additional crimes, but the district court specifically stated it was not considering those facts when deciding the appropriate sentence in this matter. Based on the record before this court, we conclude Allen failed to demonstrate the district court relied upon impalpable or highly suspect evidence when imposing sentence. The district court concluded an aggregate sentence of 96 to 240 months was appropriate, and that sentence was within the parameters of the relevant statutes. See NRS 176.035(1); NRS 205.060(2). We conclude Allen failed to demonstrate the district court abused its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Lynne K. Simons, District Judge  
David Kalo Neidert  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk