

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRYAN LEE ADAMS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81559-COA

FILED

MAY 25 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Bryan Lee Adams appeals from a judgment of conviction, entered pursuant to a guilty plea, of attempted sexual assault of a minor under fourteen years of age. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

First, Adams contends the district court abused its discretion by relying on impalpable or highly suspect evidence. “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.*

Adams argues the district court mistook a sentence contained in his sentencing memorandum as a claim that the inappropriate conduct occurred only one time. Adams also argues the district court inaccurately opined the conduct took place during the same time period that Adams was coaching youth sports when, in fact, he only started coaching youth well after the conduct with the victim ended.

During Adams' allocution, Adams stated he made a bad decision. The district court responded to Adams and noted he made more than one bad decision, and the district court referenced the four-year period Adams was having sex with the victim, beginning when she was 12 years old. Prior to announcing the sentence, the district court noted the nature of Adams' crimes, such as taking the victim to have an abortion when she was 13 years old and fathering a child with her when she was 15 years old, and the record supports these findings. Further, even if the district court was mistaken in Adams' timeline between the conduct with the victim and youth coaching, the district court did not base the sentence *solely* on impalpable and highly suspect evidence. Therefore, we conclude Adams has not demonstrated that the district court abused its discretion.


Second, Adams contends that in determining the sentence, the district court improperly considered that Adams failed to self-report his crimes. Adams argues that considering a failure to self-report would be a violation of his Fifth Amendment right against self-incrimination. Adams' argument misconstrues the record. When taken in full context, the district court's comments were made in response to Adams' comments in his psychosexual evaluation that the victim initiated the sexual contact. Rather than suggesting Adams should have reported his own crimes, the district court was noting that Adams could have reported the victim's alleged actions to her parents. Therefore, we conclude Adams has not demonstrated that the district court violated Adams' Fifth Amendment right against self-incrimination in imposing sentence.

Third, Adams contends the district court exhibited bias and closed its mind to the presentation of Adams' mitigation evidence. 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). We presume a district judge is impartial. *See id.* 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). The district court reviewed Adams’ sentencing memorandum, heard argument on the matter, and afforded Adams the opportunity to be heard at sentencing. Further, the district court considered and specifically commented on much of Adams’ mitigation evidence. Because the district court considered Adams’ evidence, the district court did not close its mind to the presentation of all the evidence, and therefore, we conclude Adams failed to demonstrate the district court exhibited improper bias. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Tierra Danielle Jones, District Judge  
Special Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk