

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PATRICK MATTHEW HOWLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82300-COA

FILED

AUG 19 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. A. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Patrick Matthew Howley appeals from a judgment of conviction, pursuant to a guilty plea, of attempted use of a minor under 14 years of age in producing pornography or as a subject of sexual portrayal in performance. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Howley claims the district court abused its discretion by sentencing him to the maximum sentence without first considering mitigating factors and by not placing its reasoning on the record. Howley claims he would have received probation had the district court followed the sentencing goals embodied in NRS 176.0131 and properly engaged with the mitigating information presented to it.

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). The granting of probation is discretionary. See NRS 176A.100(1)(c).

Howley’s sentence of 8 to 20 years in prison is within the parameters provided by the relevant statutes, see NRS 193.330; NRS 200.710(2), and Howley does not allege that the district court relied on impalpable or highly suspect evidence. Moreover, the record reflects that the district court heard argument from Howley’s counsel, Howley spoke on his own behalf in mitigation, and the court read Howley’s psychosexual evaluation before imposing his sentence. Finally, nothing in NRS 176.0131 indicates that it imposes a duty on judges, and the district court was not required to state its reasons for imposing a particular sentence, see *Campbell v. Eighth Judicial Dist. Court*, 114 Nev. 410, 414, 957 P.2d 1141, 1143 (1998). For these reasons, and having considered the sentence and the crimes, we conclude the district court did not abuse its discretion in sentencing Howley. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Las Vegas Defense Group, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk