

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES DAVID MCERQUIAGA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82807-COA

FILED

DEC 16 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

James David McErquiaga appeals from a judgment of conviction entered pursuant to a guilty plea of two counts of assault with the use of a deadly weapon. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

McErquiaga argues the district court abused its discretion at sentencing by imposing consecutive prison terms despite compelling mitigation evidence. McErquiaga asserted he took responsibility for the offenses, he did not ask for probation, the offenses arose out of the same incident, and he did not have a lengthy criminal history.

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 district court listened to the arguments of the parties and reviewed McErquiaga’s mitigation information. The district court

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subsequently imposed consecutive terms of 15 to 38 months in prison, which are within the parameters provided by the relevant statutes. See NRS 176.035(1); NRS 200.471(2)(b). And McErquiaga does not allege that the district court relied on palpable or highly suspect evidence. Moreover, NRS 176.035(1) plainly gives the district court discretion to run subsequent sentences consecutively, *Pitmon v. State*, 131 Nev. 123, 128-29, 352 P.3d 655, 659 (Ct. App. 2015), and McErquiaga fails to demonstrate the district court improperly imposed consecutive terms in this matter. Considering the record before this court, we conclude McErquiaga fails to demonstrate the district court abused its discretion when imposing his sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. David A. Hardy, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk