

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ULYSSES GOMEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89312-COA

ULYSSES GOMEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89313-COA

FILED

APR 09 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction entered in two district court cases. Second Judicial District Court, Washoe County; Egan K. Walker, Judge. Docket No. 89312 is an appeal from the judgment of conviction entered in district court case number CR24-0709, pursuant to a guilty plea, of sell, transport, give, or attempt to sell, transport or give schedule I or II controlled substance, first offense, at or near school, school bus stop, recreational facilities for minors, or public park. Docket No. 89313 is an appeal from the judgment of conviction entered in district court case number CR24-0711B, pursuant to a guilty plea, of principal to the offense of sell, transport, give or attempt to sell, transport, give schedule I or II controlled substance, first offense.

Ulysses Gomez argues the district court abused its discretion when it imposed a prison sentence instead of granting his request for

probation. For Docket No. 89312, the district court imposed an aggregate prison sentence of 2 to 8 years; for Docket No. 89313, the district court imposed a consecutive prison sentence of 1 to 4 years. Gomez contends the district court did not properly consider the mitigation evidence he presented, put too much emphasis on his unconfirmed gang association, and had its mind made up to impose a prison sentence.

The district court has wide discretion in its sentencing decision, and in this matter, the granting of probation was discretionary. See NRS 176A.100(1)(b); *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court 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); see *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). And the “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*, 114 Nev. at 1283, 968 P.2d at 1171.

Here, the sentences imposed are within the parameters provided by the relevant statutes. See NRS 193.130(2)(c); NRS 453.321(2)(a); NRS 453.3345(1). And Gomez does not demonstrate the district court relied on impalpable or highly suspect evidence. At the sentencing hearing, the district court heard argument from Gomez’s counsel about Gomez’s youthful age, his lack of previous felony convictions, his troubled childhood, and his loss of close friends. Counsel also presented the

district court with letters of familial support before arguing for probation. When the State mentioned law enforcement had reason to believe Gomez was a member of a gang, the district court indicated Gomez's membership in a gang was the least important factor in the case; subsequently, Gomez acknowledged his association with a gang but contended he was not a gang member. Before announcing its sentencing decision, the district court noted the mitigating circumstances presented by Gomez and its belief that there was a strong viewpoint to grant probation to an eligible defendant for a drug related offense. The district court acknowledged Gomez's case was a difficult one and ultimately determined probation was not warranted given the fact that Gomez committed the offenses while on pretrial services supervision and that Gomez sold drugs within close proximity to a school. The record shows the district court "remain[ed] open-minded enough to refrain from finally deciding [Gomez's sentence] until all of the evidence ha[d] been presented." *Cameron*, 114 Nev. at 1283, 968 P.2d at 1171 (quotation marks omitted). Accordingly, we conclude the district court did not abuse its discretion at sentencing, and we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Egan K. Walker, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk