

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO ACOSTA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90269-COA

FILED

SEP 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Antonio Acosta appeals from a judgment of conviction, entered pursuant to a nolo contendere plea, of two counts of lewdness with a minor under the age of 14 years, first offense. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Acosta argues the district court abused its discretion by sentencing him to consecutive sentences because it relied on impalpable and highly suspect evidence. Specifically, he claims the district court mistakenly believed a psychosexual evaluation existed that concluded Acosta was a high risk to reoffend. Because no such evaluation was conducted, Acosta contends the district court's conclusion that he was a high risk to reoffend and that consecutive prison terms were therefore warranted was based on impalpable and highly suspect evidence.

It is within the district court's discretion to impose consecutive sentences. *See* NRS 176.035(1); *Pitmon v. State*, 131 Nev. 123, 128-29, 352

P.3d 655, 659 (Ct. App. 2015); *see also Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) (“The sentencing judge has wide discretion in imposing a sentence . . .”). 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).

The sentence imposed in this case of two consecutive terms of 10 years to life in prison is within the parameters provided by the relevant statute. *See* NRS 201.230(2). While the district court used the words “high risk to reoffend,” this statement was not made in the context of discussing the results of a psychosexual evaluation but rather in the context of the district court’s determination of Acosta’s future dangerousness and risk to the community. The district court based this determination about Acosta being a high risk to reoffend on the allegations against Acosta and the statements made to the district court at the sentencing hearing, including Acosta’s own statement and the statement of one of the child victims. Further, while the district court at one point used the word evaluation, this appears to have been a misstatement, and the record does not demonstrate the district court believed that a psychosexual evaluation had been done. We conclude Acosta fails to demonstrate the district court relied on facts supported only by impalpable or highly suspect evidence; thus, we conclude

the district court did not abuse its discretion in imposing consecutive sentences. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk