

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AARON JOHN ELLIOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91034-COA

FILED

APR 22 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Aaron John Elliott appeals from a judgment of conviction, entered pursuant to a guilty plea, of destruction of property. First Judicial District Court, Storey County; Kristin Luis, Judge.

Elliott argues the district court abused its discretion at sentencing by denying his request for diversion so he could seek treatment for his alcohol use. Specifically, Elliott contends the district court relied on statements made by the State that were supported only by impalpable or highly suspect evidence in denying his request. Elliott also contends the district court erroneously considered NRS 453.3363 instead of NRS 176.211 in denying his request for diversion.

Elliott did not object to the State's arguments or the district court's consideration of NRS 453.3363 below. Thus, he has forfeited these claims on appeal. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). And although this court retains discretion to correct a forfeited error where an appellant demonstrates plain error, *see id.* at 50, 52, 412 P.3d at 48-49 (stating "an appellant must demonstrate that: (1) there was an error; (2) the error is plain, meaning that it is clear under current law from a casual inspection of the record; and (3) the error affected the defendant's

substantial rights (internal quotation marks omitted)), Elliott does not argue plain error on appeal, and we discern no such error from the record.

The district court has wide discretion in its sentencing decision, including its decision regarding a defendant's request for diversion. See *Pizarro v. State*, 141 Nev., Adv. Op. 44, 576 P.3d 355, 357 (2025); *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).

Elliott pleaded guilty to destruction of property for “tagging” items with spray paint and/or markers located inside and outside of the Washoe Club Museum and Saloon. Elliott contends the State improperly suggested that he was “probably” aware the damage he caused was in a historic district and that he was shocked to be arrested in front of his place of work and his children. Even assuming the State’s arguments referred to facts that were supported only by impalpable or highly suspect evidence, it is not clear from a casual inspection of the record that the district court relied on these statements to deny Elliott’s request for diversion. Rather, the district court indicated twice that it believed Elliott did not qualify for diversion because a substance abuse evaluation indicated he did not have a substance abuse disorder.


Moreover, it is not clear under current law from a casual inspection of the record that the district court erred in considering diversion

under NRS 453.3363, as Elliott specifically requested that the district court consider his substance abuse evaluation, and the evaluation recommended an early intervention program consisting of 12 weeks of education pursuant to NRS 453.3363. *See Chadwick v. State*, 140 Nev. 104, 115, 546 P.3d 215, 227 (Ct. App. 2024) (stating “an appellant is not entitled to relief if they induced or provoked the error in the trial court” (internal quotation marks omitted)). Nor does the record clearly indicate that the district court would have granted diversion but for its consideration of NRS 453.3363. Therefore, we conclude the district court did not plainly err in denying Elliott’s request for diversion.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kristin Luis, District Judge
Carson City Public Defender
Attorney General/Carson City
Storey County District Attorney
Storey County Clerk