

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARRYEL ANTHONY JOSEPH  
ABRAHAM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55264

**FILED**

JUN 09 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a controlled substance for the purpose of sale. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant Darryel Abraham contends that the district court abused its discretion at sentencing by relying on impalpable and suspect evidence—specifically, that he used a firearm—in order to impose a prison term rather than probation. As a result, Abraham claims that he was improperly sentenced for a non-existent crime: “possessing a controlled substance with the use of a firearm.” We disagree.

This court will not disturb a district court’s sentencing determination absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Abraham has not demonstrated that the district court relied solely on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. See Denson v. State, 112 Nev. 489, 492-93, 915 P.2d 284, 286-87 (1996); see also Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004). Further, the granting of probation is discretionary and Abraham’s sentence falls within the

parameters provided by the relevant statute. See NRS 176A.100(1)(c); NRS 193.130(2)(d); NRS 453.337(2)(a). Therefore, we conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Patrick Flanagan, District Judge  
Michael V. Roth  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk