

IN THE SUPREME COURT OF THE STATE OF NEVADA

FELIX NGARAMBE TWAHIRWA A/K/A
FELIX TWAHRWA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55441

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Anderson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of attempting to utter a forged instrument. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

Appellant Felix Ngarambe Twahirwa contends that the district court abused its discretion at sentencing. Twahirwa asserts that the district judge was predisposed to convict him of a felony instead of a gross-misdemeanor, had closed his mind to the presentation of evidence, and provided an unsatisfactory explanation for treating the codefendant differently. Twahirwa pleaded guilty to an offense that could be treated as either a category E felony or a gross misdemeanor. See NRS 193.330(1)(a)(5); NRS 205.090; NRS 205.110. At sentencing, the district court heard argument as to whether Twahirwa should be punished for a felony or a gross misdemeanor, asked questions about Twahirwa's criminal history, convicted and sentenced Twahirwa for a felony, and stated that Twahirwa's codefendant was treated differently because his criminal record was different. We conclude that Twahirwa has not shown

that the district court closed its "mind to the presentation of all the evidence," see Cameron v. State, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998), nor has he demonstrated that the district court abused its discretion at sentencing, see Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Andrew J. Puccinelli, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk