

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY RAY SCOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73616

FILED

JUN 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony Ray Scott appeals from a judgment of conviction entered pursuant to a guilty plea of burglary. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

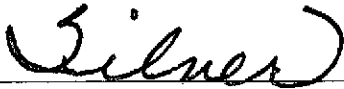
Scott argues the district court abused its discretion at sentencing because it disregarded compelling mitigation evidence. Scott also argues the district court improperly based the sentence on evidence that Scott and others traveled from Oakland, California, to commit the crime because such information indicated Scott's sentence was motivated by his race.

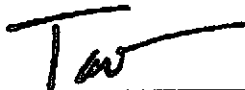
We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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).

The record reveals the district court listened to the arguments of the parties and reviewed the mitigation evidence. The district court noted

many of the codefendants in this case requested probation, but all had criminal records from California. The district court found that Scott had a drug problem, but that his criminal history and prior probation revocations did not make him a good candidate for probation. The decision to decline to sentence Scott to probation was within the district court's discretion. See NRS 176A.100(1)(c). The district court concluded a prison term of 36 to 120 months was the appropriate sentence, which was within the parameters of the relevant statute. See NRS 205.060(2). The record reveals no evidence to support an assertion that Scott's sentence was based upon his race, and Scott fails to demonstrate the district court relied upon impalpable or highly suspect evidence when imposing sentence. Based on the record before this court, we conclude the district court did not abuse its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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