

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUSTY WADE BESEAU,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76314-COA

FILED

MAR 29 2019

ELIZABETH S. YOUNG  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Rusty Wade Beseau appeals from a judgment of conviction entered pursuant to a no contest plea of attempted assault with a deadly weapon. First Judicial District Court, Carson City; James E. Wilson, Judge.


Beseau argues the district court abused its discretion by sentencing him to a prison term when the parties and the victim recommended he be placed on probation. Beseau also contends he should have been placed on probation because he complied with his presentence requirements.

We review a district court's sentencing decision for an 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).

At the sentencing hearing, the district court heard the recommendations of the parties and the victim's statement. The district court noted Beseau has a violent criminal history and committed a violent

act in this matter. The district court concluded a term of 18 to 48 months in prison was the appropriate sentence. The sentence imposed falls within the parameters of the relevant statutes, *see* NRS 193.130(2)(c); NRS 193.330(1)(a)(3); NRS 200.471(2)(b), and Beseau does not allege the district court relied upon impalpable or highly suspect evidence when it imposed the sentence. In addition, the district court is not required to follow the sentencing recommendations of the parties or the victim and the district court's decision to decline to place Beseau on probation was within its discretion. *See* NRS 176A.100(1)(c). Considering the record before this court, we conclude Beseau fails to demonstrate the district court abused its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. James E. Wilson, District Judge  
State Public Defender/Carson City  
Attorney General/Carson City  
Carson City District Attorney  
Carson City Clerk