

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDWARD NELMS, A/K/A MCKINLEY  
JOHNSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75526-COA

**FILED**

APR 18 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Edward Nelms appeals from a judgment of conviction entered pursuant to a guilty plea of robbery. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Nelms argues the district court abused its discretion when imposing sentence. Nelms asserts the State mistakenly informed the district court during the sentencing hearing that his parole had been revoked three times when it had actually only been revoked once. Nelms contends the district court may have relied upon the misstatement when imposing Nelms' sentence.

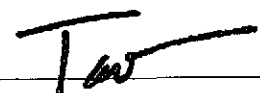
The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere with the sentence imposed by the district court "[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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).

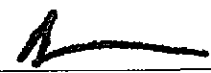
The record reveals the district court heard the arguments of the parties concerning the facts of the offense, Nelms' criminal history, and

information concerning Nelms' mental health issues. The district court noted Nelms had a criminal history involving the use of violence and hoped he would recognize he needs to continue to treat his mental illness. The district court did not discuss Nelms' conduct while he was released on parole or whether his parole had been revoked on more than one occasion. The district court imposed a sentence of 60 to 180 months in prison, which was within the parameters of the relevant statute. *See* NRS 200.380(2). In addition, the district court's decision to decline Nelms' request for probation was within its discretion. *See* NRS 176A.100(1)(c). Based on the record before this court, we conclude Nelms failed to demonstrate the district court abused its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Chief Judge, Eighth Judicial District Court  
Pitaro & Fumo, Chtd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk