

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES MICHAEL LAVENDER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71890

**FILED**

APR 19 2017

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

*ORDER OF AFFIRMANCE*

Appellant James Michael Lavender appeals from a judgment of conviction entered pursuant to a plea of no contest to the crime of grand larceny. Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.

Lavender claims the district court abused its discretion at sentencing by not granting him probation because he pleaded no contest, waived the restitution hearing, and “generously agreed to a restitution amount of twelve thousand dollars.”

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). Lavender’s sentence of 21 to 53 months in prison falls within the parameters of the relevant statutes. See NRS 193.130(2)(c); NRS 205.222(2). Lavender does not claim the district court’s sentencing decision was based on impalpable or highly suspect evidence. See *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And the district court’s decision to grant probation is discretionary. See NRS 176A.100(1)(c).


We note the district court considered the facts that Lavender was “a many-times-over convicted felon” and took advantage of a senior

citizen in this case. And we conclude the district court did not abuse its discretion by declining to suspend Lavender's sentence and place him on probation. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

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

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

cc: Hon. Alvin R. Kacin, District Judge  
Elko County Public Defender  
Attorney General/Carson City  
Elko County District Attorney  
Elko County Clerk