

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALEJANDRO GARCIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78700-COA

**FILED**

DEC 20 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*


Alejandro Garcia appeals from a judgment of conviction, pursuant to a guilty plea, of carrying a concealed weapon without a permit. Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.

Garcia was sentenced to 12 to 34 months in prison, his sentence was suspended, and he was placed on probation for a period of 60 months. He contends the district court abused its discretion by denying him the opportunity for drug diversion pursuant to NRS 458.290 through NRS 458.350, inclusive ("Civil Commitment of Alcoholics and Drug Addicts Convicted of Crime"). The assignment of a defendant to a program of treatment is discretionary. *See* NRS 458.320(2); *Cassinelli v. State*, 131 Nev. 606, 615-19, 3587 P.3d 349, 356-58 (Ct. App. 2015) (reviewing a denial of a request for assignment to a program of treatment for an abuse of discretion). This court will refrain from interfering with the sentence imposed "[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).

Garcia's sentence is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(c); NRS 202.350(2)(b), and Garcia does not allege that the district court relied on impalpable or highly suspect evidence. Accordingly, we conclude the district court did not abuse its discretion by declining to civilly commit Garcia to a drug diversion program. We therefore

ORDER the judgment of conviction AFFIRMED.

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

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

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

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