

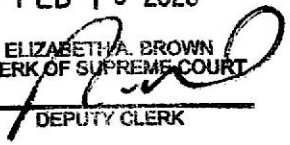
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVINJIT SINGH GARCHA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78787-COA

FILED

FEB 19 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevinjit Singh Garcha appeals from a judgment of conviction entered pursuant to a no contest plea, wherein Garcha was convicted of coercion, sexually motivated. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

Garcha claims the district court abused its discretion at sentencing by not granting him probation. Garcha states that, prior to sentencing, he had demonstrated that he could be safely in the community, could maintain sobriety, was amiable to supervision, and was not a high risk to reoffend. For these reasons, and because the Division of Parole and Probation, the prosecutor, and the defense all recommended probation, Garcha argues the imposition of a prison term does not strike a fair balance between his need for rehabilitation and society's interest in safety and deterrence.


Because Garcha was not deemed a high risk to reoffend, the granting of probation in this case was discretionary. *See* NRS 176A.100(1)(c); NRS 176A.110(1), (3)(o). *See generally Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) ("The sentencing judge has wide discretion in imposing a sentence"). 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). Generally, it is not an abuse of discretion for a district court to impose a sentence in excess of the recommendations by the Division of Parole and Probation and the prosecutor. *See Dunham v. State*, 134 Nev. 563, 569, 426 P.3d 11, 15 (2018).

Garcha’s sentence of 12 to 36 months in prison is within the parameters provided by the relevant statute, *see* NRS 207.190(2)(a), and Garcha does not allege that the district court relied on impalpable or highly suspect evidence when imposing the sentence. Considering the facts of the underlying offense, we conclude the district court did not abuse its discretion by declining to suspend Garcha’s sentence and place him on probation. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Lynne K. Simons, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk