

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN JEFFERY WATERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81498-COA

FILED

MAR 30 2021

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

ORDER OF AFFIRMANCE

John Jeffery Waters appeals from a judgment of conviction entered pursuant to a guilty plea of child abuse or neglect, first offense. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Waters claims the district court abused its discretion by not granting probation. Waters claims the district court erroneously defaulted to incarceration instead of pursuing a more progressive option such as a therapeutic court program. The granting of probation is discretionary. See NRS 176A.100(1)(c); *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).

Waters’ sentence of 19 to 72 months in prison is within the parameters provided by the relevant statute, see NRS 200.508(1)(b)(1), and Waters does not allege the district court relied on impalpable or highly suspect evidence. In rendering its sentencing decision, the district court

noted Waters' traumatic upbringing, including violence perpetrated on him and his mother by his stepfather. However, the district court also noted Waters' prior criminal history—including prior convictions for domestic battery—and the nature of the offense. Considering these facts, we conclude the district court did not abuse its discretion by declining to suspend the sentence and place Waters on probation. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Second Judicial District Court
Second Judicial District Court, Dept. 10
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk