

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESUS RODRIGUEZ RODRIGUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81732-COA

FILED

JUL 14 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jesus Rodriguez Rodriguez appeals from a judgment of conviction, entered pursuant to an *Alford*¹ plea, of attempted sexual assault of a minor under the age of 14 years. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.²

Rodriguez argues the sentencing court abused its discretion by failing to consider mitigating evidence. Specifically, he claims the district court did not consider that he had a limited and stale criminal history, he was losing his sight, the charges may have been fabricated, and the Division of Parole and Probation recommended a sentence of 30 to 96 months. Further, Rodriguez claimed the district court abused its discretion by failing

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

²The Hon. Susan Johnson imposed the sentence at the sentencing hearing.

to articulate its reasons for imposing the sentence of 84 to 210 months in prison.

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 a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[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 sentence imposed is within the parameters provided by the relevant statutes. *See* NRS 193.330(1)(a)(1); NRS 200.366(3). And Rodriguez does not allege that the district court relied on impalpable or highly suspect evidence. The sentencing judge heard argument from the parties and stated she reviewed the case and “looked over everything” prior to imposing the sentence. Further, the district court was not required to articulate its reasons for imposing a particular sentence. *See Campbell v. Eighth Judicial Dist. Court*, 114 Nev. 410, 414, 957 P.2d 1141, 1143 (1998).³

³Rodriguez argues that this court should overrule prior opinions stating that the sentencing court is not required to articulate its reasons for imposing a particular sentence. However, this court cannot overrule Nevada Supreme Court precedent. *See People v. Solorzano*, 63 Cal. Rptr. 3d 659, 664 (Ct. App. 2007), *as modified* (Aug. 15, 2007) (“The Court of Appeal must follow, and has no authority to overrule, the decisions of the

Having considered the sentence and the crime, we conclude the district court did not abuse its discretion in sentencing Rodriguez. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial Dist. Court
Eighth Judicial Dist. Court, Dept. 19
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

California Supreme Court.” (quotation marks and internal punctuation omitted)); *see also Hubbard v. United States*, 514 U.S. 695, 720 (1995) (Rehnquist, C.J., dissenting) (observing *stare decisis* “applies *a fortiori* to enjoin lower courts to follow the decision of a higher court”).