

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY GEORGE HENEY, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84268-COA

FILED

DEC 15 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Timothy George Heney, Jr., appeals from a judgment of conviction entered pursuant to a guilty plea of attempted obtaining and using personal identifying information of another person and grand theft greater than \$3,500. First Judicial District Court, Carson City; James E. Wilson, Judge.

Heney argues that the district court abused its discretion at sentencing because it was influenced by uncharged bad acts mentioned by the victim in her impact statement and, as a result, imposed a sentence greater than that recommended by the parties. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with the sentence imposed by the district court “[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).

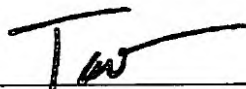
During the sentencing hearing, the district court listened to the arguments of the parties, and both parties noted that they agreed to recommend concurrent terms. The district court also listened to the victim impact statement, and during that statement, the victim stated that Heney had taken additional money from her that had not been accounted for in this matter and stated that Heney committed acts of domestic violence. After the victim finished speaking, Heney's counsel urged the district court not to consider any information regarding uncharged acts that the victim discussed during her impact statement. And the district court agreed not to consider any statements concerning uncharged acts for the purpose of imposing Heney's sentence.

The district court subsequently sentenced Heney to serve a term of 48 to 120 months for attempted obtaining and using personal identifying information of another person and a term of 24 to 60 months for grand theft greater than \$3,500. The district court also ordered Heney to serve consecutive terms. The sentences imposed fall within the parameters of the relevant statutes. *See* 176.035(1); NRS 193.153(1)(a)(2); 2011 Nev. Stat., ch. 41, § 10, at 162 (former NRS 205.0835); NRS 205.463(3). The district court specifically stated that it did not consider any information concerning uncharged acts that the victim discussed in her impact statement. Therefore, Heney fails to demonstrate that the district court relied on impalpable or highly suspect evidence when it imposed Heney's sentence. Considering the record before this court, we conclude Heney fails

to demonstrate the district court abused its discretion when imposing his sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk