

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT ALLEN BENNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86962-COA

FILED

JAN 30 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert Allen Benner appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of attempted sexual assault. Second Judicial District Court, Washoe County; Lynne K. Jones, Judge.

Benner argues the district court abused its discretion at sentencing by failing to consider his mitigating evidence and by imposing consecutive terms of 8 to 20 years 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), including whether to impose consecutive sentences, *see* NRS 176.035(1); *Pitmon v. State*, 131 Nev. 123, 128-29, 352 P.3d 655, 659 (Ct. App. 2015). Generally, this court 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); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

The sentence imposed is within the parameters provided by the relevant statutes. *See* NRS 193.153(1)(a)(1); NRS 200.366(2). And Benner

does not allege that the district court relied on impalpable or highly suspect evidence. The district court specifically stated it considered the mitigating evidence presented by Benner at the sentencing hearing but concluded consecutive prison terms was the appropriate sentence given: the nature of the crimes; the fact he was on probation when he committed the crimes; there were two victims; Benner's need for deterrence; and that he is dangerous. Having considered the sentence and the crime, we conclude the district court did not abuse its discretion in sentencing Benner. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

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