


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ISIDRO SANCHEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88919-COA

FILED

APR 23 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Isidro Sanchez appeals from a judgment of conviction, entered pursuant to a guilty plea, of felony driving under the influence of alcohol and/or controlled or prohibited substance, above the legal limit, third offense. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Sanchez contends the district court erred in considering his immigration status in sentencing him to prison as opposed to the diversion program. Because Sanchez did not object to the district court's comments about his immigration status below, we review for plain error. *See Newman v. State*, 132 Nev. 340, 344, 373 P.3d 855, 858 (2016). To demonstrate plain error, an appellant must show there was an error, the error was plain or clear, and the error affected appellant's substantial rights. *Id.* "The defendant must show actual prejudice or a miscarriage of justice." *Id.* (quotation marks omitted).

Generally, a district court "is accorded wide discretion in imposing a sentence," which allows it "to consider a wide, largely unlimited

variety of information to insure that the punishment fits not only the crime, but also the individual defendant.” *Martinez v. State*, 114 Nev. 735, 737-38, 961 P.2d 143, 145 (1998). A district court violates a defendant’s due process rights if it bases its sentencing decision, in part, on the defendant’s nationality, ethnicity, or status as an illegal immigrant. *Id.* at 738, 961 P.2d at 145. However, a defendant’s immigration status may be considered for the limited purpose of deciding whether to grant probation. *Ruvalcaba v. State*, 122 Nev. 961, 965, 143 P.3d 468, 471 (2006).

During the sentencing hearing, the district court inquired about how Sanchez’s immigration status was affected by his criminal history. This inquiry did not express bias based on his status as an immigrant but instead questioned his ability to remain in the country and participate in the DUI court diversion program. Because the district court’s consideration of Sanchez’s status was limited to the context of whether he could feasibly complete the diversion program, Sanchez does not demonstrate the district court plainly erred by considering his immigration status during sentencing.

Next, Sanchez argues the district court erred by imposing a term of imprisonment based on its conclusion that Sanchez would not be able to complete the diversion program because he would be subject to deportation. Sanchez contends that in doing so, the court relied on impalpable or highly suspect evidence.

As is discussed above, 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 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 2-to-5-year prison sentence imposed is within the parameters provided by the relevant statute. See NRS 484C.400(1)(c). The district court imposed this sentence, instead of a DUI diversion, because Sanchez had not shown that he could remain in the United States to complete the program. According to the presentence investigation report (PSI), Sanchez was not a United States citizen and did not clearly indicate whether he was subject to deportation.¹ Sanchez, through counsel, represented that Sanchez was in a “visa process” for a visa for victims of crime stemming from a 2001 shooting during which Sanchez was wounded. Considering the absence of clear evidence establishing that Sanchez could, despite his criminal history and uncertain visa status, remain in the United States for the duration of the diversion program, Sanchez did not demonstrate the district court’s finding was based on impalpable or highly suspect evidence. Having considered the sentence and the crime, we


¹The PSI commented that, according to United States Immigration and Customs Enforcement, Sanchez “is not legally in the United States; however, is currently residing in the United States on a U.S. Visa.” Thus, it is unclear if Sanchez’s presence in the United States exceeded the scope or duration of that visa.

conclude the district court did not abuse its discretion in sentencing Sanchez. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Scott N. Freeman, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk