

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTIAN ARMANDO AGUILAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89526-COA

FILED

JUN 30 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  C
DEPUTY CLERK

ORDER OF AFFIRMANCE

Christian Armando Aguilar appeals from a judgment of conviction, entered pursuant to a guilty plea, of coercion constituting domestic violence. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

First, Aguilar argues the district court exhibited bias against him and counsel based on his positive drug test for benzodiazepines. Aguilar argues the district court's bias was demonstrated at the September 12, 2024,¹ hearing through: (1) the district court's decision to immediately revoke his release despite the district court's practice of not revoking release until lab testing confirmed the presence of drugs, (2) the district court's statement that Mexican prescriptions would no longer be accepted in her court, (3) the district court's alleged mocking of counsel's potential sentencing arguments that Aguilar was a changed man, and (4) the district court's threat to take counsel into custody. Aguilar argues this behavior demonstrates the district court had an unfavorable view of him, which shows the district court closed its mind to the presentation of the evidence at sentencing.

¹Aguilar was scheduled to be sentenced at the September 12, 2024, hearing. He was ultimately sentenced at the September 19, 2024, hearing.

We conclude Aguilar fails to demonstrate that the district court was biased or that the district court closed its mind to the presentation of the evidence at sentencing. *See Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). We note Aguilar's sentencing hearing occurred a week after the hearing in which the above allegations of bias originated. Aguilar has not demonstrated the district court's sentencing decision was based on knowledge acquired outside of the proceedings, and the district court's decision at sentencing does not otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that "a party alleging judicial bias must show that the judge learned prejudicial information from an extrajudicial source" or that "the judge formed an opinion based on the facts introduced during the proceedings and that this opinion displays a deep-seated favoritism or antagonism that would make fair judgment impossible" (internal quotation marks omitted)); *see also Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011) (noting "a judge is presumed to be impartial"). The district court made it clear at sentencing that it was basing the sentence on the egregious facts of the crime. Therefore, we conclude Aguilar is not entitled to relief on this claim.

Second, Aguilar argues the district court erred by rejecting the sentencing recommendation of the parties without first finding that the State abused its prosecutorial discretion. Specifically, Aguilar cites *Sandy v. Fifth Jud. Dist. Ct.*, 113 Nev. 435, 935 P.2d 1148 (1997), for the proposition that, if the district court rejects the sentencing recommendation of the parties, the district court is required to make specific findings that the State abused its prosecutorial discretion. However, in *Sandy*, the district court completely rejected the plea agreement, not just the sentencing recommendation. *Id.* at 437-38, 935 P.2d at 1149. Here, the

district court did not reject the plea agreement. It only exercised its discretion not to follow the sentencing recommendation of the parties. See *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) (stating the district court has wide discretion in its sentencing decision); *Sandy*, 113 Nev. at 440 n.1, 935 P.2d at 1151 n.1. (“[T]rial judges need not accept sentence bargains, *i.e.*, plea bargains which purport to guarantee defendants a certain sentence, because they offend the judicial prerogative to sentence.”). Thus, Aguilar has not shown he is entitled to relief pursuant to *Sandy*.

Further, the parties did not enter into a conditional plea agreement, see NRS 174.035(4), nor did the district court express an inclination to follow the parties’ sentencing recommendations or stipulations, see *Cripps v. State*, 122 Nev. 764, 771, 137 P.3d 1187, 1191-92 (2006) (stating that when a district court has indicated it will follow the parties’ sentencing recommendation and later declines to do so, “the defendant must be given an opportunity to withdraw the plea”). Aguilar was specifically canvassed, twice, about the district court having the ultimate discretion to either follow the parties’ sentencing recommendation or to impose a prison term. This language was also in his plea agreement. Moreover, the prison term imposed of 24 to 60 months was within the limits of the statute, NRS 207.190(2)(a), and the district court had the discretion whether or not to impose probation, see NRS 176A.100(1)(c). And we conclude the district court did not abuse its discretion by declining to place Aguilar on probation and by imposing a prison term. Based on all of the above, we conclude Aguilar is not entitled to relief on this claim.

Third, Aguilar argues the district court abused its discretion by denying his motion to reconsider his sentence. We lack jurisdiction to consider this claim because “no statute or court rule provides for an appeal from an order denying a motion for reconsideration.” See *Phelps v. State*,


111 Nev. 1021, 1022, 900 P.2d 344, 345 (1995). To the extent Aguilar's motion was construed as a motion to modify his sentence, we conclude the district court did not abuse its discretion by denying the motion because Aguilar failed to demonstrate that his sentence was based on a materially untrue assumption or mistake of fact regarding his criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, we conclude Aguilar is not entitled to relief on this claim.

In its answering brief, the State argues Aguilar should be given the opportunity to withdraw his plea because the district court rejected the "drop-down" provision in the guilty plea agreement. This provision would have allowed Aguilar to withdraw his plea and enter a plea to a lesser charge if he received probation and successfully completed it. Aguilar did not receive probation, and thus the district court did not reject this term in the plea agreement. Therefore, we conclude Aguilar is not entitled to relief on this claim. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kimberly A. Wanker, District Judge
SDS Chartered, LLC
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk