IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN MEREDITH LOCKRIDGE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44735

FILED

JUN 0 1 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of battery upon an officer in a place of confinement. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Steven Meredith Lockridge to serve a prison term of 29-72 months to run consecutively to the sentence imposed in district court case no. CR03-2779.

Lockridge contends that the district court abused its discretion at sentencing by: (1) imposing an excessive sentence; and (2) considering hearsay evidence. The hearsay evidence, objected to by defense counsel, consisted of police reports from a 1993 conviction that the State sought for admission in its argument for habitual criminal adjudication. Lockridge did not object, however, to proof of the 1993 conviction for exhibiting a firearm in the presence of an officer, he objected only to the police reports detailing the offense, and argued that he should be allowed to confront and cross-examine the police officers who wrote the reports. Citing to the dissent in Tanksley v. State[1] for support, Lockridge argues that this court

[1]113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

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should review the sentence imposed by the district court to determine whether justice was done. We disagree with Lockridge's contention.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime.[2] This court has consistently afforded the district court wide discretion in its sentencing decision.[3] The district court's discretion, however, is not limitless.[4] Nevertheless, we will refrain from interfering with the sentence imposed "[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."[5] Despite its severity, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.[6]

In the instant case, Lockridge cannot demonstrate that the district court relied solely, or at all, on impalpable or highly suspect

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[2]Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

[3]Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[4]Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

[5]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976) (emphasis added).

[6]Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

evidence.[7] Further, Lockridge has not alleged that the relevant sentencing statute is unconstitutional. In fact, the sentence imposed was within the parameters provided by the relevant statute.[8] At the sentencing hearing, the State presented evidence of four prior felony convictions, all admitted without objection, and informed the district court about Lockridge's violent and drug-related criminal history.[9] The State argued for a sentence of life without the possibility of parole, or, at a minimum, 10 years to life. Lockridge asked the district court to impose a prison term of 12-36 months to run concurrently with the sentence he was already serving. The district court expressly rejected the prosecutor's request for habitual criminal adjudication, despite acknowledging Lockridge's eligibility, and prior to imposing the sentence, made the following statement:

> THE COURT: You are really a habitual criminal. There's really no question about that. You've got a horrible amount of violence in your life. The only issue for me is do you deserve to go to prison for life on this offense. There is really no question about my concern of the level of violence in the past and the fact that you do not understand authority, you are not accepting authority. I see people all the time that have long prison records.

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[7]See Randell v. State, 109 Nev. 5, 7-8, 846 P.2d 278, 280 (1993) (quoting People v. Mockel, 276 Cal. Rptr. 559, 563 (Ct. App. 1990)).

[8]NRS 200.481(2)(f) (category B felony punishable by a prison term of 1-6 years).

[9]The four prior felony convictions included exhibiting a firearm in the presence of an officer in 1993, battery with substantial bodily harm in 1999, trafficking in a controlled substance in 1999, and possession of stolen property in 2004.

> I see people all the time from prison; and they don't have write-ups. . . . You aren't doing what you need to do, and you are not adjusting well to prison. . . .
>
> Mr. Lockridge, it's a very close call for me. You probably should be adjudicated a habitual criminal. I probably should sentence you to life in prison. I'm giving you one more shot. One. There will be no leniency ever again.

Accordingly, based on all of the above, we conclude that the district court did not abuse its discretion at sentencing, and that the sentence imposed is not excessive. We also note that it is within the district court's discretion to impose consecutive sentences.[10]

Therefore, having considered Lockridge's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Rose

_____, J.
Gibbons

_____, J.
Hardesty

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[10]See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

cc: Hon. Connie J. Steinheimer, District Judge
Jenny Hubach
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk