

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANGEL ORLANDO VALDOBINES-
RODRIGUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46993

FILED

AUG 04 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count each of second-degree kidnapping with the use of a deadly weapon and assault with a deadly weapon. Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge. The district court sentenced appellant Angel Orlando Valdobines-Rodriguez to serve two consecutive prison terms of 36-120 months for the kidnapping and a consecutive prison term of 12-48 months for the assault.

Valdobines-Rodriguez's sole contention is the district court abused its discretion at sentencing by imposing a sentence which constitutes cruel and/or unusual punishment in violation of the United States and Nevada Constitutions.¹ Specifically, Valdobines-Rodriguez argues that the sentence "was overly harsh" in light of his relative youth and "minimal" criminal history, and considering that he was under the influence of methamphetamine at the time of the offense. We disagree.

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

¹See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6.

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 unless the statute itself is unconstitutional, and the sentence is so unreasonably disproportionate to the crime as to shock the conscience.⁶

In the instant case, Valdobines-Rodriguez does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. In fact, Valdobines-Rodriguez concedes that the sentence imposed by the district court was within the parameters provided by the relevant statutes.⁷ At the sentencing hearing, the district court heard from the two victims who detailed the violent nature of the offense, which included their fear that Valdobines-Rodriguez was going to kill them. The district court, as well,

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

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

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

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

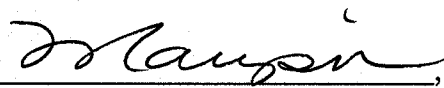
⁶Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

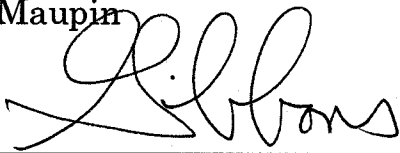
⁷See NRS 200.330 (category B felony punishable by a prison term of 2-15 years); NRS 193.165(1); NRS 200.471(2)(b) (category B felony punishable by a prison term of 1-6 years).

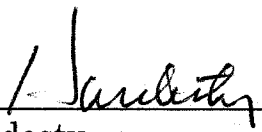
noted the violent nature of the offense, and stated, "This kind of crime should never happen. I want to make sure this defendant is not in a position to ever do that again." And finally, we note that in exchange for his guilty plea to the two counts, Valdobines-Rodriguez received a substantial benefit: the State agreed to dismiss additional charges. Therefore, based on all of the above, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Valdobines-Rodriguez's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Richard Wagner, District Judge
State Public Defender/Carson City
Attorney General George Chanos/Carson City
Humboldt County District Attorney
Humboldt County Clerk