

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY GLENN SELBACH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49023

JERRY GLENN SELBACH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49026

FILED

JUL 20 2007

ORDER OF AFFIRMANCE

JARETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas, of one count each of sexual assault and aggravated stalking. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Jerry Glenn Selbach to serve a prison term of 10 years to life for the sexual assault and a consecutive prison term of 6-15 years for the aggravated stalking.

Selbach's sole contention is that the district court abused its discretion by imposing consecutive sentences. Citing to the dissents in Tanksley v. State<sup>1</sup> and Sims v. State<sup>2</sup> and the concurrence in Santana v. State<sup>3</sup> for support, Selbach argues that this court should review the

<sup>1</sup>113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

<sup>2</sup>107 Nev. 438, 441, 814 P.2d 63, 65 (1991) (Rose, J., dissenting).

<sup>3</sup>122 Nev. \_\_\_, \_\_\_, 148 P.3d 741, 745 (2006) (Rose, C.J., concurring).

sentence imposed by the district court to determine whether justice was done. We conclude that Selbach's contention is without merit.

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.<sup>4</sup> This court has consistently afforded the district court wide discretion in its sentencing decision.<sup>5</sup> The district court's discretion, however, is not limitless.<sup>6</sup> 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."<sup>7</sup> 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.<sup>8</sup>

In the instant case, Selbach does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. In fact, the sentence imposed by the district court was within the parameters provided by the relevant

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<sup>4</sup>Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

<sup>5</sup>Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

<sup>6</sup>Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).


<sup>7</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

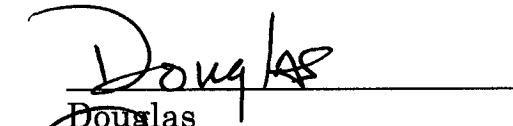
<sup>8</sup>Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

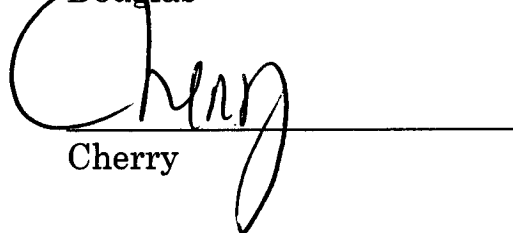
statutes.<sup>9</sup> We also note that it is within the district court's discretion to impose consecutive sentences.<sup>10</sup> Additionally, at the sentencing hearing, the district court heard from the victim and a representative from the Division of Parole and Probation, who both detailed the violent nature of Selbach's crime and its significant impact on the victim's life. Therefore, based on all of the above, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Selbach's contention and concluded that it is without merit, we

ORDER the judgments of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

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<sup>9</sup>See NRS 200.366(2)(b) (category A felony punishable by a prison term of 10 years to life); NRS 200.575(2) (category B felony punishable by a prison term of 2-15 years).

<sup>10</sup>See NRS 176.035(1); see generally Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

cc: Hon. Brent T. Adams, District Judge  
Washoe County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk