

IN THE SUPREME COURT OF THE STATE OF NEVADA


VALERIE MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49270

FILED

JAN 30 2008

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of first-degree arson and twelve counts of first-degree murder. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Valerie Moore to 72 to 180 months for first-degree arson, and life in the Nevada State Prison without the possibility for parole for each count of first-degree murder. The sentences for first-degree murder were imposed consecutive to the sentence for arson as well as consecutive to each other. In addition, the sentences in this case were imposed consecutive to appellant's sentence in district court case number C87-452.

Moore's sole contention on appeal is that the district court abused its discretion by imposing an excessive sentence. Moore argues consecutive sentences trivialize the loss of life because she will never serve a sentence for eleven of her victims. Citing to the dissents in Tanksley v. State¹ and Sims v. State,² Moore asks this court to review the sentences

¹113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

²107 Nev. 438, 441, 814 P.2d 63, 65 (1991) (Rose, J., dissenting).

imposed to see that justice was done. Moore finally argues that the fact that she stipulated to consecutive sentences should not preclude this court's review of her sentences.

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.³ This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ The district court's discretion however, is not limitless.⁵ 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."⁶ Moreover, regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."⁷

³Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1992) (plurality opinion).

⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

⁵Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

⁶Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); see also Lee v. State, 115 Nev. 207, 211, 985 P.2d 164, 167 (1999).

⁷Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).


In the instant case, Moore does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statute.⁸ Moreover, it is within the district court's discretion to impose consecutive sentences.⁹ Notably, appellant stipulated to the imposition of consecutive sentences. Finally, even assuming this court was inclined to review these sentences for proportionality, the sentences imposed are not so unreasonably disproportionate to the crimes as to shock the conscience. The record indicates that Moore was on parole for second-degree murder with the use of a deadly weapon when she committed the instant offenses. Prior to imposing sentence, the district court considered arguments from counsel, numerous letters and statements from relatives of the twelve victims, the presentence investigation report, and Moore's statement to the court. The court further noted that "[t]he result of the defendant's conduct in this case is the death of 12 human beings, and substantial injury to 73 other persons directly affected, as well as, of course, the family members and persons close to all the victims in this case." Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

⁸See NRS 205.010 (category B felony punishable by a prison term of 2-15 years); 2003 Nev. Stat., ch. 137, § 7 at 770-71 (NRS 200.030(4)(b)(1)) (category A felony punishable by a possible prison term of life without the possibility of parole).

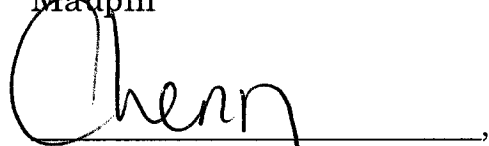
⁹See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

Having considered appellant's contention and concluding that it is without merit, we

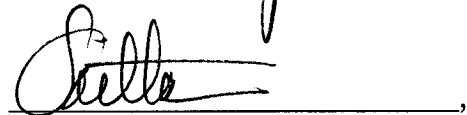
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Cherry

 J.

Saitta

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