

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRADLEY ALLEN CARVER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52102

FILED

ORDER OF AFFIRMANCE

MAR 10 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of voluntary manslaughter with use of a deadly weapon and one count of battery with a deadly weapon. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Bradley Allen Carver to serve two consecutive prison terms of 48 to 120 months for the manslaughter count, and a consecutive prison term of 48 to 120 months for the battery count.

Carver contends that the district court abused its discretion at sentencing by imposing excessive and consecutive prison terms, instead of lesser concurrent terms. Specifically, Carver claims that the district court's comment, "You don't just stop by and happen to pay a visit to people you think might have disabled your vehicle. And . . . it's odd that [the victims] would invite [you] over," shows that the district court improperly based its sentencing decision on facts for which there was no evidentiary support. Carver argues the comment shows the district court reached the conclusion that Carver arrived at the crime scene "for the express purpose of confronting the [two victims]" when the evidence showed Carver arrived for an unrelated innocent purpose and the two

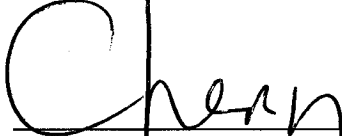
victims had “clear collateral responsibility” for what occurred. We disagree.


This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). This court 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.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence within statutory limits is not cruel and unusual punishment where the statute itself is constitutional and the sentence is not so unreasonably disproportionate to the crimes as to shock the conscience. Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). The district court has discretion to impose consecutive sentences. NRS 176.035(1).

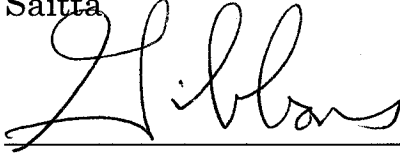
Carver has not demonstrated that the district court based its sentencing decision on facts that are unsupported by the evidence. The record reveals the district court did not conclude that Carver arrived at the crime scene for the purpose of confronting the victims, and it did not consider the relative culpability of Carver and his victims in imposing sentence. Rather, the district court’s comment, when taken in context, reflected its confusion regarding the circumstances that led to the explosive confrontation. See generally Norwood v. State, 112 Nev. 438, 440, 915 P.2d 277, 278 (1996). We note that the sentences imposed are within the statutory parameters. See NRS 193.165; NRS 200.080; NRS 200.481(2)(e). Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

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