

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LLOYD BLUE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53709

**FILED**

**DEC 03 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of child abuse and neglect with substantial mental harm. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court sentenced appellant Robert Lloyd Blue to serve a prison term of 60 to 180 months.

Blue contends that the district court abused its discretion at sentencing by disregarding the Division of Parole and Probation's recommendations and the psychologist's evaluation, refusing to hear from the victim, and imposing a sentence that was harsher than the sentence sought by the State. Blue further claims that his sentence constitutes cruel and unusual punishment.

We have 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). 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." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). 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 as to shock the conscience. Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). Moreover, the district court's decision to suspend execution of a sentence and grant probation is discretionary. See NRS 176A.100(1)(c).

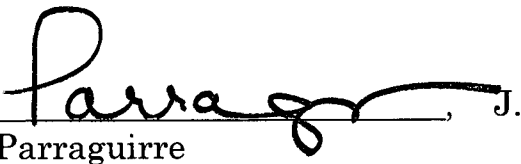
Here, it is evident from the record on appeal that the district court considered the parties' sentencing recommendations and the psychologist's risk assessment and did not have any questions for the victim. Blue does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. The sentence imposed by the district court falls within the parameters provided by the relevant statute, see NRS 200.508(1)(a)(2), and it is not so unreasonably disproportionate to the crime as to shock the conscience—Blue admitted to repeatedly chaining the victim to a bed, withholding food from her, and beating her with a stick or weight belt. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

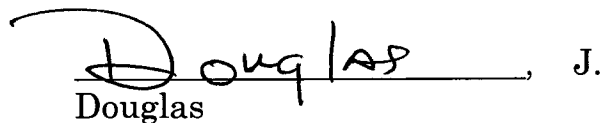
Blue also contends that district court deprived him of a fair sentencing and effective assistance of counsel by refusing to hear and consider a victim's impact statement. Blue notes that defense counsel informed the district court that his family was present and asked the district court if it wished to query them. The district court responded, "The court does not. It is not an uncommon situation that we see where someone who is abused by a family member still loves the family member. They just want the abuse to stop. The State didn't notice a victim speaker."

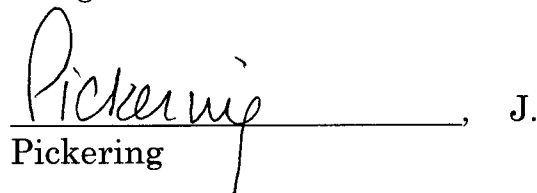
The State is required to give a victim reasonable notice of the defendant's sentencing, NRS 176.015(4), and the district court is required to afford a victim an opportunity to give an impact statement, NRS 176.015(3). However, a victim is not required to make a statement and the district court is not required to question a victim who is present at sentencing. We conclude from these circumstances that Blue has not demonstrated that the district court deprived him of effective assistance of counsel or that it erred by refusing to question a victim.

Having considered Blue's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

  
Parraguirre

  
Douglas

  
Pickering

cc: Hon. Valorie Vega, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk