

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH BERNARD KELLY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56712

FILED

FEB 09 2011

TRACIE K. LINDEMAN
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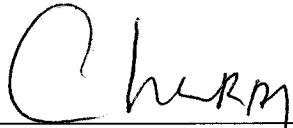
ORDER OF AFFIRMANCE

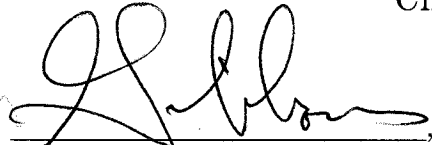
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of robbery with the use of a deadly weapon and one count of attempted robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

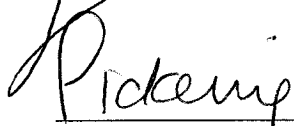
Appellant Joseph Kelly contends that the district court abused its discretion at sentencing because Kelly did not intend to hurt anyone, did not use a real gun, did not physically hurt anyone, suffers from a serious mental illness, had an "extremely unsettling family upbringing," suffers from drug addiction, and has a young son he wants to break the cycle of crime and drug addiction. We disagree. Kelly's 3 consecutive sentences of 28 to 70 months with consecutive sentences of 12 to 30 months are within the statutory limits, see NRS 193.165(1), NRS 193.330(1)(a)(2); NRS 200.380(2), and Kelly does not allege that the district court relied on "impalpable or highly suspect evidence," Silks v. State, 92 Nev. 91, 94 545 P.2d 1159, 1161 (1976). It is within the district court's discretion to run sentences consecutively. NRS 176.035(1). Accordingly, we conclude that the district court did not abuse its discretion

at sentencing, see Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk