

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD LEE MITCHELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58469

FILED

DEC 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Tracie K. Lindeman
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to violate the Uniform Controlled Substances Act and attempted ex-felon in possession of a firearm. First Judicial District Court, Carson City; James E. Wilson, Judge.

First, appellant Ronald Lee Mitchell contends that the State orally agreed to modify the plea agreement and then breached it by failing to recommend a reduced sentence after he provided substantial assistance to law enforcement personnel. "When the State enters into a plea agreement, it is held to the most meticulous standards of both promise and performance with respect to both the terms and the spirit of the plea bargain." Sparks v. State, 121 Nev. 107, 110, 110 P.3d 486, 487 (2005) (internal quotation marks omitted). Here, the district court determined that there was no oral modification of the plea agreement and the parties were bound by the terms as stated in the written plea agreement memorandum. Further, our review of the record reveals that the State meticulously followed the terms of the plea agreement. Therefore, we conclude that Mitchell's contention is without merit.

Second, Mitchell contends that the district court abused its discretion by declining to reduce his sentence after finding that he did not provide law enforcement with substantial assistance. “The district court has discretion to ‘reduce or suspend’ the mandatory prison sentence imposed for a drug trafficking violation” if, pursuant to NRS 453.3405(2), the defendant provides law enforcement personnel with substantial assistance in the apprehension of other drug traffickers. State v. Lucero, 127 Nev. ___, ___, 249 P.3d 1226, 1228 (2011). Here, the district court found that Mitchell was not entitled to move for a sentence reduction pursuant to NRS 453.3405(2) because he did not plead guilty to drug trafficking. The district court also found that even if NRS 453.3405(2) applied, Mitchell was not entitled to a sentence reduction because he did not provide law enforcement with substantial assistance. We conclude that the district court did not abuse its discretion.

Finally, Mitchell contends that the district court abused its discretion by imposing a disproportionate sentence constituting cruel and/or unusual punishment. See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6. This court will not disturb a district court’s sentencing determination absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Mitchell has not alleged that the district court relied solely on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. See Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 489-90 (2009). Mitchell’s concurrent prison terms of 24-60 months, ordered to run consecutively to the sentence imposed in another case, fall within the parameters provided by the relevant statutes, see NRS 453.401(1)(a); NRS 202.360(1)(a); NRS 193.330(1)(a)(3); NRS 193.130(2)(c); see also NRS 176.035(1), and the sentence is not “so

unreasonably disproportionate to the offense as to shock the conscience,”
Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also
Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).
Therefore, we conclude that the district court did not abuse its discretion
at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk