

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRET HENRY KELLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59931

FILED

JUL 25 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of attempted murder. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Appellant Bret Henry Keller contends that the district court abused its discretion by imposing the maximum punishment allowable by law. Keller specifically claims that the victim's daughter's impact statement was improper because its central theme was his lack of remorse and because he did not receive notice that her statement would refer to a prior act of domestic violence.


Keller did not object to the daughter's impact statement and he has not demonstrated plain error. See Dieudonne v. State, 127 Nev. ___, ___, 245 P.3d 1202, 1204-05 (2011) (reviewing the failure to object to victim impact statements for plain error). Keller "pleaded guilty and professed remorse" at sentencing; therefore, the district court's consideration of his remorse or lack of remorse did not implicate the Fifth Amendment right against self-incrimination. McConnell v. State, 120 Nev. 1043, 1059-60, 102 P.3d 606, 618 (2004). And Keller has not shown that the State's failure to provide reasonable notice that the impact

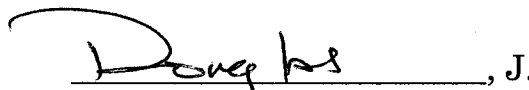
statement would refer to specific prior acts was prejudicial or that he was deprived of an opportunity to rebut the impact statement. See generally Buschauer v. State, 106 Nev. 890, 894, 804 P.2d 1046, 1048-49 (1990) (discussing remedies for lack of reasonable notice that the victim impact statement would refer to specific prior acts).

Furthermore, Keller has not shown that the district court relied on impalpable or highly suspect evidence, see Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976), the relevant statutes are unconstitutional, see Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996), or his 8- to 20-year prison sentence falls outside the parameters of the relevant statutes, see NRS 193.330(1)(a)(1); NRS 200.030(4), (5) (murder is a category A felony).

Accordingly, we conclude that Keller has not demonstrated that the district court abused its discretion at sentencing, see Parrish v. State, 116 Nev. 982, 988-89, 12 P.3d 953, 957 (2000), and we

ORDER the judgment of conviction AFFIRMED.


Gibbons, J.


Douglas, J.


Parraguirre, J.

cc: Hon. Jerome Polaha, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk