

IN THE SUPREME COURT OF THE STATE OF NEVADA

KUPAA KEA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61160

FILED

FEB 13 2013

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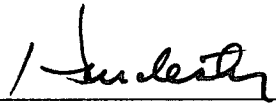
ORDER OF AFFIRMANCE

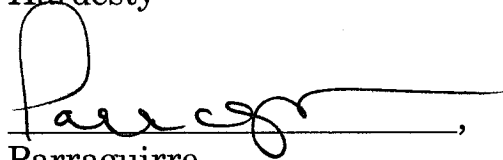
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of battery with the use of a deadly weapon causing substantial bodily harm. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

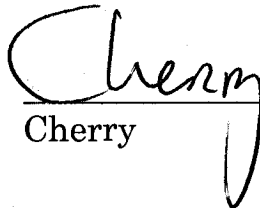
Appellant Kupaa Kea argues that his sentence constitutes cruel and unusual punishment because it is disproportionate to the crime when considering his young age, problems with substance abuse, familial abandonment issues, and acceptance of responsibility for the crimes. We disagree. This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Regardless of its severity, “[a] sentence within the statutory limits is not ‘cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.’” Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994). Kea’s sentence of two consecutive terms of 35-156 months is within the statutory

limits, NRS 200.481(2)(e)(2), and is not unreasonably disproportionate to the offenses for which he pleaded guilty. Therefore, we conclude that the sentence does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Scott N. Freeman, District Judge
Fry & Berning, LLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk