IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS ALLEN HANKS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64001

FILED

JUN 11 2014

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of second-degree kidnapping. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.
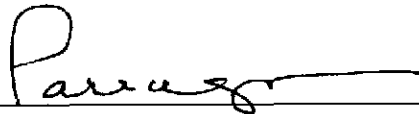
Appellant Douglas Allen Hanks, Jr., contends that the district court erred by allowing the victim to reference facts and prior bad acts in her victim impact statement that were not relevant and resulted in unfair prejudice that substantially outweighed the statement's probative value.[1] Because Hanks did not object to the victim impact statement, we review for plain error affecting his substantial rights. *Dieudonne v. State*, 127 Nev. ___, ___, 245 P.3d 1202, 1204-05 (2011). This court has held that a "district court is capable of listening to the victim's feelings without being subjected to an overwhelming influence by the victim in making its sentencing decision." *Randell v. State*, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). While the victim's statement contained some inappropriate remarks, we conclude that the remarks did not render the sentencing

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[1]We note that Hanks fails to identify which statements were irrelevant and inflammatory.

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hearing fundamentally unfair. Furthermore, the district court did not appear to be affected by the inappropriate remarks as it substantially deviated downward from the sentencing recommendation by the State and the Division of Parole and Probation and imposed the sentencing term recommended by Hanks. Accordingly, we conclude that the victim impact statement did not affect Hanks' substantial rights, and we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Pickering

_____, J.
Parraguirre

_____, J.
Saitta

cc: Hon. Scott N. Freeman, District Judge
Douglas A. Nutton
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk