

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MIGUEL ANGEL FLORES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70721

**FILED**

OCT 11 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY M. J. [Signature]  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Miguel Angel Flores appeals from a judgment of conviction entered pursuant to an *Alford*<sup>1</sup> plea of conspiracy to commit murder and voluntary manslaughter with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

First, Flores claims the district court committed reversible error by sentencing him to a longer prison term than his codefendant received based on its "sense" that he was the shooter.

We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Flores' sentences fall within the parameters of the relevant statutes. See NRS 193.165(1); NRS 199.480(1)(b); NRS 200.080. And Flores has not alleged the court relied solely on impalpable or highly suspect evidence. See *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

Moreover, the record demonstrates the district court considered counsels' arguments and Flores' allocution, both of which indicated that Flores was the shooter. In reaching its sentencing decision, the district

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<sup>1</sup>See *North Carolina v. Alford*, 400 U.S. 25 (1970).

court explained that Flores and his codefendant had different criminal histories, Flores had committed multiple crimes involving weapons, and the codefendant's sentence was based on its sense that Flores was the shooter. The record does not demonstrate the district court closed its mind to the presentation of evidence, and we conclude the district court did not abuse its discretion at sentencing. *See Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).<sup>2</sup>

Second, Flores claims the district court committed reversible error by failing to make specific findings to support its deadly-weapon-enhancement decision, as required by NRS 193.165(1) and *Mendoza-Lobos v. State*, 125 Nev. 634, 218 P.3d 501 (2009). Flores did not object below; therefore, he is not entitled to relief absent a demonstration of plain error. *See Mendoza-Lobos*, 125 Nev. at 644, 218 P.3d at 507.

Our review of the record reveals "the district court failed to articulate findings regarding each of the enumerated factors for each deadly weapon enhancement. However, nothing in the record indicates that the district court's failure to make certain findings on the record had any bearing on the district court's sentencing decision." *Id.* at 644, 218 P.3d at 508. Accordingly, we conclude the district court did not commit plain error affecting Flores' substantial rights.


Third, Flores claims cumulative error deprived him of a fair sentencing proceeding. However, we reject this claim because there was one error and the error did not affect Flores' substantial rights. *See United*

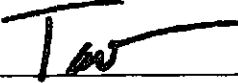
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<sup>2</sup>To the extent Flores claims his sentence constitutes cruel or unusual punishment, we conclude his claim lacks merit. *See Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion); *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

*States v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000) (“One error is not cumulative error.”); *Pascua v. State*, 122 Nev. 1001, 1008 n.16, 145 P.3d 1031, 1035 n.16 (2006).

Having concluded Flores is not entitled to relief, we  
ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Douglas W. Herndon, District Judge  
Legal Resource Group  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk