

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONTAY THOR SEVIER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79633-COA

FILED

NOV 09 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Dontay Thor Sevier appeals from a judgment of conviction, entered pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Sevier argues that the district court abused its discretion by imposing an excessively harsh sentence. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987).<sup>1</sup> Additionally, it is within the district court's discretion to impose consecutive sentences. *See NRS 176.035(1); Pitmon v.*

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<sup>1</sup>Sevier contends a different standard of review should be adopted regarding sentencing decisions. This court cannot overrule Nevada Supreme Court precedent. *See People v. Solórzano*, 63 Cal. Rptr. 3d 659, 664 (2007), *as modified* (Aug. 15, 2007) ("The Court of Appeal must follow, and has no authority to overrule, the decisions of the California Supreme Court." (brackets omitted)); *see also Hubbard v. United States*, 514 U.S. 695, 720 (1995) (Rehnquist, C.J., dissenting) (observing *stare decisis* "applies a *fortiori* to enjoin lower courts to follow the decision of a higher court").

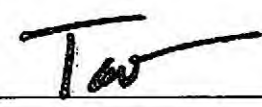
*State*, 131 Nev. 123, 128-29, 352 P.3d 655, 659 (Ct. App. 2015). We will refrain from interfering with the sentence imposed by the district court “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And, 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 *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

The district court sentenced Sevier to a term of life in prison without the possibility of parole and a consecutive term of 8 to 20 years in prison for the use of a deadly weapon. The sentence was imposed consecutive to an existing federal sentence. The sentence imposed is within the parameters provided by the relevant statutes. See NRS 193.165(1), (2); NRS 200.030(4)(b)(1). Sevier does not allege that those statutes are unconstitutional. Sevier also does not allege that the district court relied on impalpable or highly suspect evidence. Sevier was convicted of first-degree murder with the use of a deadly weapon, and Sevier’s criminal history includes multiple instances of violent offenses with deadly weapons.

Having considered the sentence and the crimes, and in light of Sevier's criminal history, we conclude the sentence imposed is not grossly disproportionate to the crime, and the district court did not abuse its discretion when sentencing Sevier. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Scott N. Freeman, District Judge  
Law Office of Thomas L. Qualls, Ltd.  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk