

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TRAVIS JAYE COLLETTI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81236-COA

FILED

JUN 28 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Travis Jaye Colletti appeals from a judgment of conviction, entered pursuant to a guilty plea, of battery with the use of a deadly weapon and battery constituting domestic violence. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Colletti contends the district court abused its discretion at sentencing. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). 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).

First, Colletti contends the district court abused its discretion by relying on impalpable or highly suspect evidence from the victim’s impact statement as well as an erroneous belief that Colletti was on formal probation. During the sentencing hearing, the victim described multiple uncharged bad acts that Colletti committed and how they affected her. However, Colletti failed to demonstrate that the victim’s impact statement


amounted to impalpable and highly suspect evidence. *See Denson v. State*, 112 Nev. 489, 494, 915 P.2d 284, 287 (1996) (noting a district court has wide discretion to consider uncharged crimes during sentencing). Additionally, Colletti's assertion that the district court believed he was on formal probation rather than informal probation is not supported by the record. Rather, the presentence investigation report reflected a term of informal probation, which Colletti began roughly one month prior to his arrest for the instant case. Further, the district court indicated Colletti's violent criminal history was a factor in determining his sentence. Therefore, Colletti fails to demonstrate the district court relied solely on impalpable or highly suspect evidence in determining his sentence, and we conclude Colletti fails to demonstrate the district court abused its discretion in this regard.

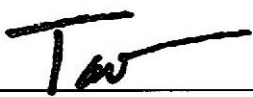
Next, Colletti contends the district court abused its discretion by imposing an excessive and disproportionate sentence amounting to cruel and unusual punishment. Regardless of its severity, "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment 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).

Colletti's sentence of 3 to 10 years in prison is within the parameters provided by the relevant statute.¹ See NRS 200.481(2)(e)(1). Colletti does not allege the statute is unconstitutional. The district court considered the nature of this crime as well as Colletti's prior conviction involving threatening someone with a firearm. Having considered the sentence and the crime, we conclude the sentence imposed is not grossly disproportionate to the crime, it does not constitute cruel and unusual punishment, and the district court did not abuse its discretion when imposing sentence.

Finally, Colletti argues the cumulative effect of the errors in this case warrants reversal. As Colletti has identified no errors, we conclude there are no errors to cumulate. See *Morgan v. State*, 134 Nev. 200, 201 n.1, 416 P.3d 212, 217 n.1 (2018). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹The district court sentenced Colletti to credit for time served for his conviction for misdemeanor battery constituting domestic violence, which was run concurrently to his other sentence.

cc: Hon. Mary Kay Holthus, District Judge
Zaman & Trippiedi, PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk