


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM CURTIS CAMPBELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88408-COA

FILED
FEB 25 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Adam Curtis Campbell appeals from a judgment of conviction, entered pursuant to a guilty plea, of driving or being in actual physical control of a vehicle while being under the influence of an intoxicating liquor resulting in substantial bodily harm. Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Campbell argues that 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). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[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); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). When an appellant fails to object to alleged error, we review for plain error affecting the appellant’s substantial rights. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003).

25-081030

First, Campbell argues the district court abused its discretion by considering highly suspect evidence about the damage incurred by Genoa Trees and Landscaping (Genoa Trees)—the business at the intersection where the collision occurred—and by failing to consider mitigating evidence.¹ Campbell asserts the district court improperly credited the argument about Genoa Trees as a victim because it had not been mentioned in any charges. Further, Campbell contends the court disregarded Campbell's expression of remorse, counseling attendance, and efforts to provide continued employment for his staff and restitution for the victims.

At the sentencing hearing, the district court considered the presentence investigation report (PSI), the documents submitted by Campbell and the State, and the victim impact testimony. The PSI included an itemized statement from Genoa Trees describing the property damaged by the collision and the supplies and labor necessary to replace the damaged trees, fencing, and irrigation equipment. The State also introduced pictures taken immediately after the collision showing the damage to Genoa Trees. Campbell had acknowledged in the plea agreement that he may be ordered to pay restitution for offenses that the State did not prosecute under the agreement. Further, he did not challenge the Genoa Trees evidence in the PSI or dispute it at sentencing. Instead, he acknowledged the damage he caused in his apology to the staff and owners of Genoa Trees. Thus,

¹To the extent Campbell asserts that his counsel was ineffective for not challenging the Genoa Trees evidence, we decline to address this claim in the first instance on direct appeal. *Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006) (“This court has repeatedly declined to consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless.”).

Campbell failed to demonstrate the restitution amount was supported solely by impalpable and highly suspect evidence.

Regarding the mitigation evidence, the district court noted it reviewed Campbell's submissions, acknowledged his testimony and expression of remorse, and noted the efforts he made. Nothing in the record indicates the district court did not consider this evidence. Instead, the record indicates the district court's decision to depart from the State's recommended sentence was based on Campbell's history of driving while intoxicated and the grave nature of the instant offense. Having considered the sentence, the crime, and the record, we conclude the district court did not abuse its discretion in sentencing Campbell.

Second, Campbell contends the district court abused its discretion by departing from the sentence recommended in the guilty plea agreement to increase the term of imprisonment and the restitution amount. Pursuant to the guilty plea agreement resulting from the SCR 252(2) settlement conference, the State agreed to request a term of no more than 3 to 7.5 years, but Campbell was free to argue for any lawful sentence. Campbell asserts that the district court should have followed the recommendation. He insists that this court should either direct the district court to impose the negotiated sentence or remand the case for sentencing before a different district judge.

Absent entry of a conditional plea based upon the court's acceptance of the parties' sentencing recommendation or the judge's expression of an inclination to follow the parties' sentencing recommendation, the district court is not bound by the parties' sentencing recommendations. *See* NRS 174.035(4); *cf. Cripps v. State*, 122 Nev. 764, 771, 137 P.3d 1187, 1191-92 (2006). When a settlement conference results

in a guilty plea agreement that involves sentencing stipulations, “such a settlement shall be conditioned on the trial judge’s acceptance of and agreement to follow the stipulations.” SCR 252(2)(f). “If the trial judge is unwilling to abide by the stipulations, then either side may withdraw from the guilty plea agreement.” *Id.*

Here, Campbell’s 4-to-10-year prison sentence is within the parameters provided by the relevant statute. *See* NRS 484C.430(1). Campbell acknowledged in the plea agreement and plea canvass that he had not been promised or guaranteed a particular sentence and that the district court was not obligated to follow the sentencing recommendation. The district court also did not express an inclination to accept the recommended sentence before or after the settlement conference. Thus, the district court did not abuse its discretion in departing from it. Lastly, we find Campbell’s reliance on SCR 252(2)(f) misplaced as there were no sentencing stipulations in the plea agreement. And contrary to Campbell’s contention, had the district court declined to follow a stipulated sentence, Campbell may have been permitted to withdraw his guilty plea, not seek specific performance or resentencing. *See id.*


Third, Campbell argues that the State’s sentencing argument violated the spirit of the plea negotiations. He asserts that the State’s argument about the damage to Genoa Trees and about Campbell’s lack of remorse undermined the recommendation in the plea agreement.


Campbell did not object to the State’s arguments below, and he does not argue on appeal that they constitute plain error. Specifically, he does not argue that the State’s argument clearly contradicted the sentencing recommendation under current law from a casual inspection of the record, nor does he argue that those errors affected his substantial

rights. See *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). We thus conclude he has forfeited this claim, and we decline to review it on appeal. See *Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005) (stating it is the appellant’s burden to demonstrate plain error); see also *State v. Eighth Jud. Dist. Ct. (Doane)*, 138 Nev., Adv. Op. 90, 521 P.3d 1215, 1221 (2022) (recognizing the Nevada appellate courts “follow the principle of party presentation” and thus “rely on the parties to frame the issues for decisions and assign to courts the role of neutral arbiter of matters the parties present” (quoting *Greenlaw v. United States*, 554 U.S. 237, 243 (2008)); *Senjab v. Alhulaibi*, 137 Nev. 632, 633-34, 497 P.3d 618, 619 (2021) (“We will not supply an argument on a party’s behalf but review only the issues the parties present.”). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Thomas W. Gregory, District Judge
Marc Picker Law
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk