IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARNULFO ESCALANTE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89945-COA

ORDER OF AFFIRMANCE

Arnulfo Escalante appeals from a judgment of conviction, entered pursuant to a guilty plea, of voluntary manslaughter with the use of a deadly weapon. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Chief Judge.

Escalante contends the State improperly argued that the victim had received death threats prior to the killing. Escalante claims that this argument was based on impalpable and highly suspect evidence because the threats were not shown to be death threats and that categorizing them as death threats prejudiced Escalante 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

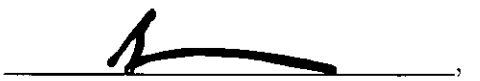
parameters of relevant sentencing statutes "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

At sentencing, the State argued the victim had received death threats prior to the killing. Escalante objected, and the district court held a bench conference. At the conference, Escalante and the State agreed the victim received threats and the State withdrew its statement that the threats were death threats. After the bench conference, the district court stated it was limiting its consideration of the State's argument to just threats and was disregarding the argument that there were death threats. Thereafter, the district court made no further reference to the threats. Given this record, Escalante does not demonstrate the district court's decision to impose an aggregate sentence of 6 to 20 years in prison[1] was based on impalpable or highly suspect evidence as the court understood the nature of the threats prior to sentencing. *See Randell v. State*, 109 Nev. 5, 7-8, 846 P.2d 278, 280 (1993) ("Judges spend much of their professional lives separating the wheat from the chaff and have extensive experience in sentencing, along with the legal training necessary to determine an

[1]We note the aggregate sentence falls within the parameters of the relevant sentencing statutes. *See* NRS 193.165; NRS 200.080.

appropriate sentence." (brackets and internal quotation marks omitted)). Therefore, we conclude Escalante is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.



_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Steve L. Dobrescu, Chief Judge
Kirsty E. Pickering Attorney at Law
Attorney General/Carson City
White Pine County District Attorney
Attorney General/Ely
White Pine County Clerk