

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MINGLONG CHEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91078-COA

FILED

FEB 27 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Minglong Chen appeals from a judgment of conviction, entered pursuant to a guilty plea, of exploitation of an older person, \$5,000 or more. Ninth Judicial District Court, Douglas County; Nathan Tod Young, Judge.

First, Chen argues his plea was not knowingly and voluntarily entered because (1) the interlineation to the guilty plea agreement was not made on his copy in Mandarin; (2) he was not able to communicate with counsel during the change of plea hearing because the interpreter participated in the hearing remotely; (3) he only attempted to commit the crime and thus did not understand the nature of the crime; and (4) he did not understand the direct consequences of his plea. This claim is not properly raised on direct appeal. A challenge to the validity of a guilty plea should be raised in the district court in the first instance unless the error clearly appears from the record. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 367-68 (1986), as limited by *Smith v. State*, 110 Nev. 1009, 1010 n.1, 879 P.2d 60, 61 n.1 (1994). Here, Chen did not raise his claim in the district court in the first instance, and the alleged errors do not clearly appear in the record. Therefore, we decline to consider this claim on appeal.

26-09341

Second, Chen argues the district court abused its discretion at sentencing because it relied on suspect evidence. 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).

Chen alleges the district court improperly relied on his immigration status in its sentencing decision. A district court violates a defendant’s due process rights when it bases its sentencing decision, at least in part, on the defendant’s nationality, ethnicity, or status as an illegal immigrant. *Martinez v. State*, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998). However, a defendant’s immigration status may be considered for the limited purpose of deciding whether to grant probation. *Ruvalcaba v. State*, 122 Nev. 961, 965, 143 P.3d 468, 471 (2006). Here, in response to Chen’s argument for probation, the district court stated that Chen would be deported and not be punished for his crime were he to be placed on probation. Thus, the district court found that probation was not appropriate based on Chen’s immigration status, and we conclude this consideration of Chen’s immigration status was not improper. Therefore, Chen fails to demonstrate the district court abused its discretion.

Chen also argues the district court abused its discretion and relied on suspect evidence when the district court mentioned Chen “weeping” during sentencing. At sentencing, the district court stated, “You

sit here in this court throughout this sentencing and weep, and it is clear to this Court that [the victim] is a stronger person than you. For—while you will be punished for your evil and illegal deeds, she will go on.” Chen fails to demonstrate prejudice resulting from the district court’s consideration of information founded on facts supported only by impalpable or highly suspect evidence or that the district court abused its discretion by making this statement. Thus, we conclude Chen is not entitled to relief on this claim.

Third, Chen argues his prison sentence of 8 to 20 years amounts 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).

The sentence imposed is within the parameters provided by the relevant statute, *see* NRS 200.5099(3)(a)(3), and Chen does not allege that the statute is unconstitutional. Having considered the sentence and crime, we conclude the sentence imposed is not disproportionate to the crime and does not constitute cruel and unusual punishment. Therefore, Chen is not entitled to relief on this claim.

Fourth, Chen argues his right to counsel was violated because the interpreter’s remote appearance negatively impacted his ability to

communicate with counsel. Further, he argues the use of a remote, online interpreter violated his equal protection and due process rights. Chen did not object to the use of the online interpreter at the change of plea hearing and stipulated to the use of the online interpreter at the sentencing hearing. Thus, this claim is forfeited. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). However, this court may review this claim for plain error. *Id.*; see also *Martinorellan v. State*, 131 Nev. 43, 48, 343 P.3d 590, 593 (2015) (holding “all unpreserved errors are to be reviewed for plain error without regard as to whether they are of constitutional dimension”). To demonstrate plain error, an appellant must show that: “(1) there was an ‘error’; (2) the error is ‘plain,’ meaning that it is clear under current law from a casual inspection of the record; and (3) the error affected the defendant’s substantial rights.” *Jeremias*, 134 Nev. at 50, 412 P.3d at 48. “[A] plain error affects a defendant’s substantial rights when it causes actual prejudice or a miscarriage of justice (defined as a ‘grossly unfair’ outcome).” *Id.* at 51, 412 P.3d at 49.

Chen fails to demonstrate his ability to communicate with counsel was plainly impeded to the extent he was denied the right to counsel. While the interpreter was on video, Chen was next to counsel and could have gotten counsel’s attention. Notably, Chen does not allege or identify any specific question or clarification he needed to communicate to counsel but was unable to do so because of the use of the online interpreter. Thus, he fails to demonstrate, under current law, from a casual inspection of the record, error that affected his substantial rights.

As to the equal protection claim, Chen fails to sufficiently allege an equal protection violation. “The Equal Protection Clause of the Fourteenth Amendment mandates that all persons similarly situated

receive like treatment under the law.” *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000). When doing an equal protection analysis, this court is required to determine the appropriate standard of judicial scrutiny and then consider the statutory classification under that appropriate level of scrutiny. *See id.* “Strict scrutiny is applied in cases involving fundamental rights, such as privacy, marriage, or cases involving a suspect class.” *Id.*

Here, while Chen attempts to identify himself as a suspect class deserving of strict scrutiny, he fails to allege that he was treated differently under the law than similarly situated persons. He also fails to demonstrate an in-person interpreter was required such that his due process rights were violated. Therefore, Chen fails to demonstrate, under current law, from a casual inspection of the record, error that affected his substantial rights. Therefore, Chen is not entitled to relief on this claim.

Finally, Chen argues the district court abused its discretion at sentencing by awarding \$202,500 in restitution because it was only supported by the victim’s unsworn testimony and he was not responsible for all the monetary losses. Here, at the beginning of the sentencing hearing, Chen stipulated to pay restitution in the amount of \$202,500. Therefore, he invited any error related to the amount of restitution, *see Chadwick v. State*, 140 Nev. 104, 115, 546 P.3d 215, 227 (Ct. App. 2024) (holding that under the invited error doctrine, “a party will not be heard to complain on appeal of errors which he himself induced or provoked the court or the opposite party to commit” (quotation marks omitted)), and he waived his right to challenge the amount of restitution, *cf. Burns v. State*, 137 Nev. 494, 504, 495 P.3d 1091, 1102 (2021) (“Generally, when a defendant pleads guilty and agrees to a specific sentence, he waives his right to challenge the propriety

of his sentence.” (internal quotation marks and punctuation omitted)).
Therefore, Chen is not entitled to relief on this claim.

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


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Nathan Tod Young, District Judge
Karla K. Butko
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk