IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIK RANDALL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38730

FILED

MAY 30 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richard
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of causing the death of another by driving while intoxicated, and one count of leaving the scene of an accident involving the death of a human being. The district court sentenced appellant: for DUI, to a prison term of 60 to 180 months, and a fine of $2,000.00; and for leaving the scene of an accident, to a consecutive prison term of 48 to 120 months, and a fine of $2,000.00. Finally, the district court ordered appellant to pay restitution in the amount of $6,509.26.

Appellant first contends that his guilty plea was not voluntarily entered, and is therefore invalid. However, this court has held that "a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance, either by bringing a motion to withdraw the guilty plea, or by initiating a post-conviction proceeding."[1] Because appellant raises his challenge to his guilty plea for the first time in this direct appeal, we will not address this issue.

Appellant's second contention on appeal is that the district court abused its discretion by sentencing appellant to a consecutive rather

[1]Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

than a concurrent sentence. We conclude that this contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.[2] This court will refrain from interfering with the sentence imposed "[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."[3] Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.[4]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.[5] Moreover, it is within the district court's discretion to impose consecutive sentences.[6]

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[2]See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[3]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

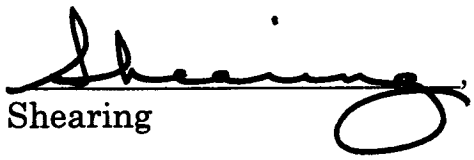
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

[5]See NRS 484.3795(1)(f); NRS 484.219(3).

[6]See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

Having considered appellant's contentions and concluded that they are either inappropriate for review on direct appeal or without merit, we

ORDER the judgment of conviction AFFIRMED.



_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. Brent T. Adams, District Judge
Richard F. Cornell
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk