

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD NAPOLITANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38891

FILED

MAR 28 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 failure to stop on a signal of a police officer. The district court sentenced appellant Richard Napolitano to serve a prison term of 18 to 48 months.

Napolitano's sole contention is that the district court abused its discretion at sentencing by refusing his request for a one-week continuance so that he could gather mitigating evidence about his possible return to the drug court program. We disagree.

We conclude that the district court did not abuse its discretion in denying appellant's motion for a continuance at sentencing.<sup>1</sup> The district court provided Napolitano with ample time to gather mitigating evidence to present at his sentencing hearing. In fact, Napolitano pleaded guilty on August 6, 2001, and was released on bail. The district court scheduled his sentencing hearing for October 8, 2001, two months after he pleaded guilty. Napolitano failed to appear at his October sentencing hearing, and a bench warrant was issued. After Napolitano's arrest on the bench warrant on November 5, 2001, the district court rescheduled

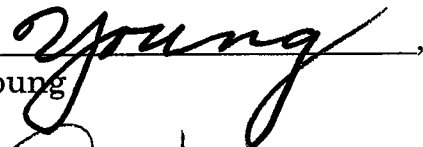
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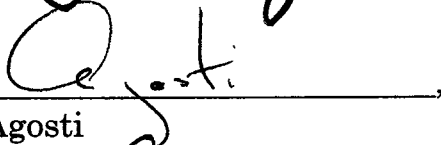
<sup>1</sup>See Zessman v. State, 94 Nev. 28, 31, 573 P.2d 1174, 1177 (1978).

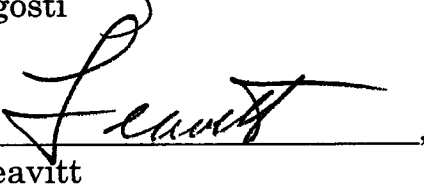
Napolitano's sentencing hearing for November 14, 2001. Napolitano therefore had three months between the time he pleaded guilty and the time he was sentenced to gather mitigating evidence. Moreover, the record of the sentencing hearing reveals that, prior to imposing sentence, the district court considered Napolitano's mitigating evidence: namely, his desire to return to drug court and the fact that he had previously enrolled himself in a drug rehabilitation program to cure his addiction. After considering that evidence, the district court acted within its discretion and concluded that a prison term was warranted in light of Napolitano's prior criminal history and the dangerous nature of the charged offense -- engaging in a high-speed chase in Las Vegas with a police car.

Having considered Napolitano's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Donald M. Mosley, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Clerk