

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY DENHAM BOYES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50638

FILED

SEP 18 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of two counts of causing substantial bodily harm to another while driving under the influence of alcohol. Second Judicial District Court, Washoe County; Deborah A. Agosti, Judge. The district court sentenced appellant Terry Denham Boyes to serve two consecutive prison terms of 4 to 12 years and ordered him to pay a \$2,000 fine for each count.

Boyes contends that "the sentence imposed was arbitrarily administered and without rationale explanation from the bench." Boyes claims that he should have received concurrent time because the victims' injuries resulted from a single tragic event, he was remorseful, and he lacks a criminal past. Boyes asks us to remand his case to the district court with instructions to resentence him to concurrent time.

We have consistently afforded the district court wide discretion in its sentencing decision.¹ We 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.”² 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.³

Boyes does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. We note that the sentence imposed is within the parameters provided by the relevant statute⁴ and that the district court

¹See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987).

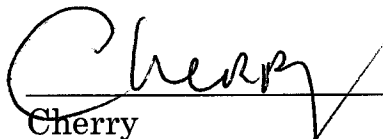
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).


⁴See NRS 484.3795(1)(f) (causing substantial bodily harm to another while driving under the influence of alcohol is punishable by a prison term of 2 to 20 years).

has discretion to impose consecutive sentences.⁵ We conclude that Boyes is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Maupin


_____, J.
Saitta

cc: Chief Judge, Second Judicial District
Hon. Deborah A. Agosti, Senior Justice
Hardy Law Group
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 303, 429 P.2d 549, 552 (1967).