

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ALLEN GEIB,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57102

ROBERT ALLEN GEIB,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57104

FILED

APR 11 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas, of burglary and fraudulent use of a credit card and burglary, grand larceny, and home invasion. Eighth Judicial District Court, Clark County; Jack B. Ames, Senior Judge.

First, appellant contends that the district court abused its discretion in adjudicating him a habitual criminal because he has no history of committing violent crimes and he was only 23 years old when he was convicted of the underlying offenses. However, NRS 207.010 makes no special allowance for non-violent crimes; rather, that is a factor a district court may consider in its discretion, Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992), nor does appellant's youth suggest that the district court abused its discretion in adjudicating him a habitual criminal. Accordingly, we cannot conclude that the district court abused its discretion in this regard.

Second, appellant argues that the imposition of two consecutive terms of 60 to 240 months in prison under the habitual criminal statute constitutes cruel and unusual punishment under the Eighth Amendment, or, alternatively, the district court abused its discretion in imposing the sentence. In this, he contends that his history of theft-related offenses did not involve violence and stems from his substance abuse and mental health problems. We disagree. In Docket No. 57102, appellant was convicted of burglary and fraudulent use of a credit card; in Docket No. 57104, he was convicted of burglary, grand larceny, and home invasion. The district court adjudicated appellant a habitual criminal in both cases and ordered the burglary count in Docket No. 57104 to run consecutively to the offenses in Docket No. 57102. The habitual criminal adjudications were based on appellant's two prior burglary convictions. Because his sentence falls within the statutory limits and is not so unreasonably disproportionate to his offenses and history of recidivism as to shock the conscience, Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996), it is not cruel or unusual. Further, in sentencing appellant, the district court focused on the offenses, noting the number of occurrences, many of which were dismissed pursuant to plea negotiations, the extensive number of victims affected, and each victim's amount of loss. We discern no abuse of discretion in imposing a consecutive sentence in this instance. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987) (noting broad discretion afforded district court in sentencing matters).

Finally, appellant complains that the prosecutor's comment during sentencing that appellant's efforts to marry his codefendant

reflected an intent to continue committing crimes should they be released from prison improperly influenced the sentencing decision. As observed above, the district court's sentencing determination focused on the scope of appellant's crimes and the impact on numerous victims. Nothing in the record suggests that the district court considered or was influenced by the challenged comment.

Having considered appellant's arguments and concluded that they lack merit, we

ORDER the judgments of conviction AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Chief Judge, Eighth Judicial District Court
Hon. Jack B. Ames, Senior Judge
Brent D. Percival
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk