

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER LEE STILES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66591

FILED

JUL 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

First, appellant Christopher Lee Stiles claims he was deprived of his due process right to a fair sentencing hearing as a result of prosecutorial misconduct. Stiles argues that the prosecutor “misstated the evidence or contradicted previous positions,” “characterized the crime as ‘the epitome of a home invasion residential burglary,’” and “argued that both defendants should be held equally culpable.” Stiles did not object to any of the prosecutor’s statements.

“Generally, the failure to object to prosecutorial misconduct precludes appellate review.” *Rose v. State*, 123 Nev. 194, 208, 163 P.3d 408, 418 (2007). However, we may review the alleged misconduct for plain error. *Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). Under the plain error standard, we determine “whether there was an error, whether the error was plain or clear, and whether the error affected the defendant’s substantial rights.” *Anderson v. State*, 121 Nev. 511, 516,

118 P.3d 184, 187 (2005) (internal quotation marks and citation omitted). We have reviewed the prosecutor's statements in context and conclude they do not constitute plain error.

Second, Stiles claims he was deprived of his due process right to a fair sentencing hearing because the district court relied upon the prosecutor's improper statements when making its sentencing decision. Stiles argues the court's sentencing decision was based on prejudice and passion.

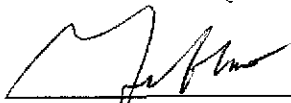
The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). "[It] is privileged to consider facts and circumstances which clearly would not be admissible at trial." *Silks v. State*, 92 Nev. 91, 93-94, 545 P.2d 1159, 1161 (1976). However, we "will reverse a sentence if it is supported *solely* by impalpable and highly suspect evidence." *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

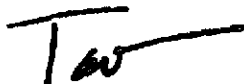
The record reveals the State recommended a prison term of 72 to 180 months and argued the facts and circumstances underlying Stiles' crime. Stiles sought a prison term of 24 to 60 months that would run concurrent with his federal case. The district court acknowledged the parties' arguments, observed that beating someone in their own home is an extremely terrifying crime because a home should be a sanctuary, and sentenced Stiles to a prison term of 35 to 156 months to run concurrent with his federal case.

We note the district court's sentence falls within the parameters of NRS 200.481(2)(e)(2), and nothing in the record suggests the sentence was based upon impalpable or highly suspect evidence. We conclude that Stiles has failed to demonstrate he was unfairly prejudiced

by the State's arguments or his sentence was the product of prejudice and passion. *See generally Randell v. State*, 109 Nev. 5, 7-8, 846 P.2d 278, 280 (1993) ("Judges spend much of their professional lives separating the wheat from the chaff and have extensive experience in sentencing, along with the legal training necessary to determine an appropriate sentence." (brackets and internal quotation marks omitted)).

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas Smith, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk