

IN THE SUPREME COURT OF THE STATE OF NEVADA

Alec Dave,)	Supreme Ct No. 84165
)	District Ct No. 21-7272
Appellant,)	Electronically Filed
)	Apr 26 2022 05:22 p.m.
vs.)	Elizabeth A. Brown
)	Clerk of Supreme Court
The State of Nevada,)	
)	
Respondent)	
)	

Appellant's Brief

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JURISDICTIONAL STATEMENT

A judgment of conviction was entered on the 21st day of January, 2022. Appellant Appendix, hereinafter AA, page 18. The notice of appeal was filed on the 27th day of January, 2022. AA, page 17. Within the time allowed by NRAP 4.

NRS 177.015(3) grants this court jurisdiction to review the judgment of conviction appealed from.

ROUTING STATEMENT

This matter is presumptively assigned to the Court of Appeals, pursuant to NRAP 17(b)(1).

1 STATEMENT OF ISSUES

2 Issue: The district court abused its discretion at sentencing. The
3 district court failed to consider the individualized circumstances of Alec
4 Dave before imposing four consecutive life sentences.
5

6 STATEMENT OF THE CASE

7
8 Alec Dave plead guilty to 4 counts of lewdness with a child under 14
9 years of age, a category B felony, as defined by NRS 201.230(2). AA, p. 6.
10

11 The district court sentenced Alec Dave to a life term with eligibility for
12 parole beginning when a minimum of ten years has been served on each
13 count. AA, p. 14. The district court ran the sentences consecutive. AA, p.
14 14. Rather than concurrent. AA, p. 14.
15

16 Alec Dave appeals. AA, p. 14.
17

18 STATEMENT OF THE FACTS

19 Alec Dave, a twenty-four year old life-long resident of McDermitt,
20 Nevada, plead guilty to four counts of lewdness with a child under 14 years
21 of age, a category B felony, as defined by NRS 201.230(2). AA, p. 6.
22

23 The district court sentenced Alec Dave to a life term with eligibility for
24 parole beginning when a minimum of ten years has been served on each
25 count. AA, p. 14. The district court ran the sentences consecutive. AA, p.
26 14.
27
28

1 Although trial judges are accorded unfettered discretion in sentencing
2 defendant, the 9th circuit insists on individualized sentencing that takes the
3 individual as well as the crime into account. See Lai citing U.S. v. Borrero-
4 Isaza, 887 F.2d 1349, 1352 (9th Cir.1989); United States v. Brady, 895 F.2d
5 538 (9th Cir. 1990); United States v. Barker, 771 F.2d 1362 (9th Cir. 1985).
6
7

8 The people of Nevada have declared that sentencing policies should
9 embody fairness and opportunity. NRS 176.0131(1). The people of
10 Nevada have declared that a continuum of sentencing options should be
11 available with community programs for diversion and supervision of
12 offenders. NRS 176.0131. The people of Nevada have declared that
13 strategies to reduce crime should involve prevention, treatment, health and
14 labor. NRS 176.0131(1).
15
16

17 The matter should be remanded for a new sentencing hearing. In
18 front of a new judge. A judge willing to consider the individual
19 circumstances of Alec Dave, and a judge willing to articulate the reasoning
20 behind whatever sentence the judge chooses to impose.
21
22

23 CONCLUSION

24 The matter should be reversed and remanded for a new sentencing
25 hearing.
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28

1 Dated this 26th day of April, 2022.

2
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10 ATTORNEY CERTIFICATE OF COMPLIANCE

11 I hereby certify that this brief complies with the formatting
12 requirements of NRAP 32(a)(4), the typeface requirements of NRAP
13 32(a)(5) and the type style requirements of NRAP 32(a)(6) because This
14 brief has been prepared in a proportionally spaced typeface using Microsoft
15 Word in type face of 14 point and Arial type face.
16

17 I further certify that this brief complies with the page- or type-volume
18 limitations of NRAP 32(a)(7) because, excluding the parts of the brief
19 exempted by NRAP 32(a)(7)(C), it does not exceed 6 pages.
20

21 Finally, I hereby certify that I have read this appellate brief, and to the
22 best of my knowledge, information, and belief, it is not frivolous or
23 interposed for any improper purpose. I further certify that this brief complies
24 with all applicable Nevada Rules of Appellate Procedure, in particular
25 NRAP 28(e)(1), which requires every assertion in the brief regarding
26
27
28

1 matters in the record to be supported by a reference to the page and
2 volume number, if any, of the transcript or appendix where the matter relied
3 on is to be found. I understand that I may be subject to sanctions in the
4 event that the accompanying brief is not in conformity with the
5 requirements of the Nevada Rules of Appellate Procedure.
6

7
8 Dated this 26th day of April, 2022.

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17 CERTIFICATE OF SERVICE

18 Pursuant to applicable appellate rules, on the 26th day of April,
19 2022, the undersigned mailed a true and correct copy of the foregoing
20 addressed to Alec Dave # 1252965, NNCC, Box 7000, Carson City, NV
21 89702.

22 Matt Stermitz

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