IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY BIDERMAN APARICIO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84300

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of driving under the influence resulting in death and one count of felony reckless driving. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge. Appellant Henry Biderman Aparicio argues that the district court erred in imposing sentence. We disagree and affirm.[1]

Aparicio crashed the car he was driving into a stopped car, killing two individuals in the stopped car. *Aparicio v. State*, 137 Nev., Adv. Op. 62, 496 P.3d 592, 594 (2021). Aparicio pleaded guilty to two counts of driving under the influence resulting in death and one count of felony reckless driving. *Id.* Before sentencing, the State submitted "approximately 50 victim impact letters written by family, friends, and coworkers of the deceased victims." *Id.* Aparicio objected that many of the authors were not victims under NRS 176.015(5)(d). *Id.* The district court overruled the objection and sentenced Aparicio to an aggregate term of 15 to 44 years. *Id.* at 595. Aparicio appealed, and this court concluded that the district court applied an overbroad interpretation "victim" and that it

[1]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

should have determined whether the nonvictim statements were relevant and reliable. *Id.* at 594. Accordingly, this court affirmed in part, vacated in part, and remanded for resentencing before a different district judge. *Id.*

On remand, the district court heard statements and considered letters from one of the decedents' brothers, sister, father, mother, and grandmother and from the other decedent's father. The district court indicated that it had not considered the letters that Aparicio previously challenged as being nonvictim evidence. The court concluded that the aggregate sentence of 15 to 44 years was appropriate and imposed the same sentence.

Aparicio first argues that the district court misinterpreted the definition of victim in the first sentencing proceeding. Aparicio restates, verbatim, the claim raised in the appeal challenging the first sentence. That sentence was vacated, and Aparicio has not shown that the family members who spoke or whose written statements were considered by the district court at the second sentencing proceeding were not victims under NRS 176.015(5). *Cf. Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976) (declining to interfere 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"). Aparicio has not shown that relief is warranted in this regard.

Aparicio next argues that it was inappropriate to consider victim statements that were submitted to the district court in writing rather than presented orally or attached in writing to the presentence investigation report. Aparicio again repeats this claim verbatim from the previous appeal. Further, Aparicio does not support this claim with record

citations, and we admonish counsel that an argument must be supported "with citations to the authorities and parts of the record on which the appellant relies." NRAP 28(a)(10)(A). Victims have a statutory right to "[a]ppear personally, by counsel or by personal representative; and [r]easonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution." NRS 176.015(3). Insofar as Aparicio relies on *Buschauer v. State*, 106 Nev. 890, 893, 804 P.2d 1046, 1048 (1990), to argue that the form the victim's statement may take is limited, that decision does not require that written victim impact statements be attached to presentence investigation reports before the district court may consider them. *See Aparicio*, 137 Nev., Adv. Op. 62, 496 P.3d at 596 (impliedly recognizing that a sentencing court may consider letters from victims and clarifying that it may consider letters from nonvictims where it finds the nonvictim letters relevant and reliable). Aparicio has not shown the district court abused its discretion in this regard. *See Randell v. State*, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993) (recognizing that the district court has broad discretion in imposing sentence).

Aparicio next argues that the district court should not have permitted victims to discuss impermissible topics. Aparicio again repeats this claim verbatim from the previous appeal and again does not support this claim with record citations. In so doing, he challenges the proceeding that led to the original sentence—now vacated—and does not address the proceeding that led to the sentence currently imposed. Aparicio thus has not asserted a claim relevant to the current sentence and has not shown that relief is warranted in this regard.

Lastly, Aparicio argues that it was inappropriate for the district court to consider the original sentence in resentencing him. Aparicio failed to object, and we need not consider this claim given that he proffers no authority indicating that a resentencing judge may not consider the original sentence, particularly where the judge imposed sentence after considering appropriate victim impact evidence. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (providing that this court need not consider claims unsupported by relevant authority and cogent argument). Aparicio has not shown that relief is warranted in this regard.

Having considered Aparicio's contentions and concluded that relief is not warranted, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Stiglich

_____, J.
Lee

_____, J.
Bell

cc: Hon. Jerry A. Wiese, Chief Judge
Nevada Defense Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk