

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE MARIA CRUZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43805

**FILED**

MAY 19 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of sexual assault. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Jose Cruz to a prison term of life without the possibility of parole.

Cruz cites to the dissent in Tanksley v. State<sup>1</sup> and asks this court to review his sentence to see if justice was done. He claims that the district court should have sentenced him to a prison term of life with the possibility of parole. He argues that his sentence shocks the conscience because "at the end of the day the majority of his experiences will be behind prison walls with no hope for anything better," and that the sentence violates state and federal constitutional provisions against cruel and unusual punishment because it is grossly disproportionate to the crime.

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<sup>1</sup>113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

We have consistently afforded the district court wide discretion in its sentencing decisions, and we have refrained from interfering with the sentence imposed when "the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."<sup>2</sup> Regardless of its severity, 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 to the crime as to shock the conscience.<sup>3</sup>

Cruz does not allege that the district court relied on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. The sentence imposed was within the parameters provided by the relevant statutes.<sup>4</sup> And contrary to Cruz's contention, the sentence is not so unreasonably disproportionate to the crime as to shock the conscience: Cruz admitted that he used a knife to force the victim to perform fellatio and that he stabbed and slashed her with the knife, causing severe wounds and nearly cutting off one of her breasts. Accordingly, we conclude that the district court did not abuse its discretion when sentencing Cruz.


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

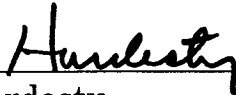
<sup>3</sup>Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

<sup>4</sup>See NRS 200.366(2)(a)(1).

Having considered Cruz's contentions and concluded that they lack merit, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Connie J. Steinheimer, District Judge  
Washoe County Public Defender  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk