

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JUERGEN REICHARDT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44699

FILED

JUN 08 2005

[Signature]
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of driving while under the influence of a controlled substance resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Jackie Glass, Judge. The district court sentenced appellant Michael Juergen Reichardt to serve a prison term of 80 to 200 months to run concurrently with the sentence imposed in another criminal case.

Reichardt contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada Constitutions because the sentence is disproportionate to the crime. In particular, Reichardt contends that the sentence imposed is too harsh given the fact that the sentence was "almost double what the State asked for at sentencing."¹ We conclude that Reichardt's contention lacks merit.

The Eighth Amendment does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is

¹Pursuant to the terms of the plea bargain, the State argued for a sentence of 4 to 10 years. The Division of Parole and Probation recommended a sentence of 43 to 192 months.

grossly disproportionate to the crime.² Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."³

This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ This court will refrain from interfering 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."⁵

In the instant case, Reichardt does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁶ Finally, we conclude that the sentence is not so unreasonably disproportionate to the offense as to shock the conscience. Although the sentence was harsher than that requested by the State, in imposing

²Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

⁶See NRS 484.3795(1)(f) (providing for a prison term of 2 to 20 years).

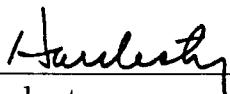
sentence, the district court commented about the nature of Reichardt's criminal history, as well as the fact that he made the victims' "lives a living hell, emotionally, physically, financially."⁷ Accordingly, we conclude that the district court did not abuse its discretion at sentencing and that the sentence imposed does not constitute cruel and unusual punishment.

Having considered Reichardt's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Jackie Glass, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁷While under the influence of methamphetamine, Reichardt drove his vehicle through a stop sign and hit another vehicle. One of the occupants of the vehicle hit by Reichardt, an eighty-five-year-old woman, broke her neck, and the other occupant sustained soft tissue damage. Reichardt had no automobile insurance at the time of the accident, and the victims incurred a significant amount of medical bills.