IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT L. BUTTERFIELD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44724

FILED

JUL 29 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction of two counts of sexual assault of a minor under sixteen years of age, and one count of attempted sexual assault of a minor under fourteen years of age. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On January 14, 2005, the district court sentenced appellant, pursuant to an Alford[1] plea, to serve two consecutive terms of five to twenty years and one consecutive term of eight to twenty years in the Nevada State Prison.

Appellant 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. We disagree.

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

[1]North Carolina v. Alford, 400 U.S. 25 (1970).

grossly disproportionate to the crime.[2] Regardless of its severity, a sentence that is within the statutory limits in 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, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.[6] Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

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[2]Harmelin v. Michigan, 501 U.S. 957, 1001 (1991) (plurality opinion).

[3]Blume 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).

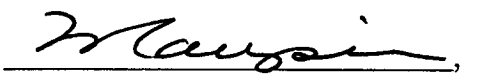
[4]See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

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

[6]See 1999 Nev. Stat., ch. 105, § 23, at 431-432; NRS 193.330.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of the conviction AFFIRMED.[7]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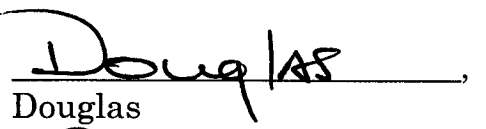
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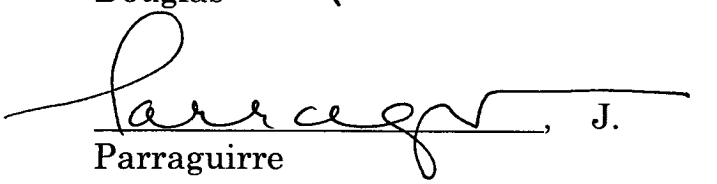
, J.
Parraguirre

cc: Honorable 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
Robert L. Butterfield

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[7]Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to appellant unfiled all proper person documents appellant has submitted to this court in this matter.