IN THE SUPREME COURT OF THE STATE OF NEVADA

CLINT ARRINGTON A/K/A CLINT EARL ARRINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45633

FILED

JAN 24 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted battery causing substantial bodily harm. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. The district court sentenced appellant Clint Arrington to serve a prison term of 19 to 48 months.

Arrington 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, Arrington contends that the sentence imposed is too harsh given the fact that he only pleaded guilty to an attempt offense. We conclude that Arrington's contention lacks merit.

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.'"[1] This court has consistently afforded the district court wide discretion in its sentencing decision.[2] 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."[3]

In the instant case, Arrington does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.[4] Finally, we conclude that the sentence is not so unreasonably disproportionate to the offense as to shock the conscience. The record indicates that Arrington had five prior felony convictions, and the instant criminal offense arose when Arrington attempted to beat the victim in the face with a metal rod. 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.

---

[1]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)).

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

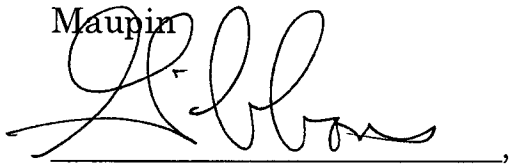
[3]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

[4]See NRS 200.481(2)(b); NRS 193.130(2)(c); 193.330(1)(a)(4); NRS 193.130(2)(d) (providing for a prison sentence of 1 to 4 Years).

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

ORDER the judgment of conviction AFFIRMED.

_____, J.
Maupin



_____, J.
Gibbons

_____, J.
Hardesty

cc: Hon. Joseph T. Bonaventure, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk