

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL R. DULIN-EVANS A/K/A
MICHAEL ROBERT DULIN A/K/A
MICHAEL ROBERT EVANS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45686

FILED

NOV 16 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant to a prison term of 12-48 months.

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 grossly disproportionate to the crime.¹ Regardless of its severity, a sentence that is "within the statutory limits is not 'cruel and unusual

¹Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."²

This court has consistently afforded the district court wide discretion in its sentencing decision.³ 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."⁴

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁵ Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

²Blume 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).

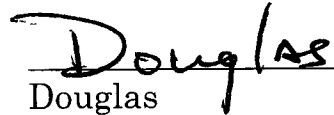
³See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

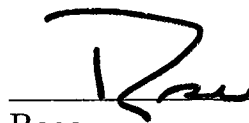
⁴Silks v. State, 92 Nev. 91, 545 P.2d 1159 (1976).

⁵See NRS 453.336(2)(a); NRS 193.130(2)(e).

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

ORDER the judgment of conviction AFFIRMED.⁶

 _____, J.
Douglas

 _____, J.
Rose

 _____, J.
Parraguirre

cc: Hon. Donald M. Mosley, 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
Michael Dulin-Evans

⁶Because 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.