

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN ROY TISDALE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46201

FILED

APR 19 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of attempted lewdness with a child under the age of 14 years. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. The district court sentenced appellant Calvin Roy Tisdale to two concurrent prison terms of 96 to 240 months but then suspended execution of the sentence and placed him on probation for a time period not to exceed 5 years. As a condition of probation, the district court imposed a 6-month term of house arrest.

Tisdale argues that the sentence constitutes cruel and unusual punishment and is so disproportionate to the crime that it shocks the conscience. 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 punishment unless the statute fixing punishment is unconstitutional or

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

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, Tisdale 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.⁵ Finally, we conclude that the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. Tisdale received a suspended sentence of 8 to 20 years for attempting to rub the breast and vaginal area of his young stepdaughter.⁶ Accordingly,

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, 94, 545 P.2d 1159, 1161 (1976).

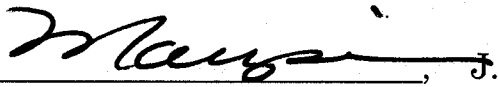
⁵See NRS 201.230(2); NRS 193.330(1)(a)(1) (providing for a prison sentence of 2 to 20 years).

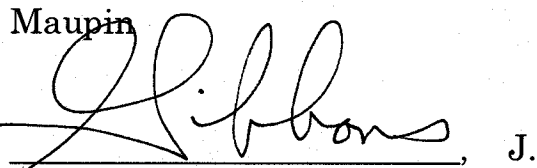
⁶Tisdale was originally charged with numerous counts of both lewdness and sexual assault on a minor under 14 years of age for repeatedly molesting his stepdaughter.

we conclude that the sentence imposed does not constitute cruel and unusual punishment.

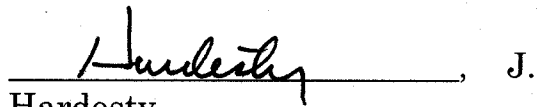
Having considered Tisdale's contention and concluded that it lacks merit, we

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