IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL EDWARD STONE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46611

FILED

JAN 09 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction and sentence. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant Paul Edward Stone pleaded guilty to attempted sexual assault of a minor under the age of 14 and lewdness with a child under the age of 14. The district court sentenced Stone to serve a prison term of 48 to 120 months for attempted sexual assault and a consecutive term of 120 months to life for lewdness.

Stone's sole claim on appeal is that, given his admission of guilt, his remorse, his lack of a prior criminal record, and his employment and military service history, his sentence constitutes cruel and unusual punishment. We disagree.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime.[1] This court has consistently afforded the district court wide

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

discretion in its sentencing decision.[2] The district court's discretion, however, is not limitless and the district court may not abuse its discretion.[3] Nevertheless, we 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] Despite its severity, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional or the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.[5]

Here, Stone's sentence was within statutory parameters.[6] Stone does not allege that the district court relied on impalpable or highly suspect evidence in sentencing him or that the sentencing statutes are unconstitutional. We note that in exchange for Stone's guilty plea, the State agreed to dismiss six counts of sexual assault of a minor under the age of 14 and three additional counts of lewdness with a child under the age of 14, all of which were alleged to have taken place over the course of several months. At the sentencing hearing, the district court considered a written statement from the 10-year-old victim and heard testimony from the boy's parents and uncle that Stone was a friend and roommate, they

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[2]Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987).

[3]Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

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

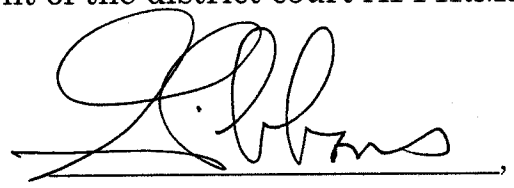
[5]Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

[6]See NRS 193.330; 200.366(3); 201.230.

trusted him, and the boy has been changed considerably by Stone's crimes against him. Based on the above, we conclude that the district court did not abuse its discretion at sentencing.

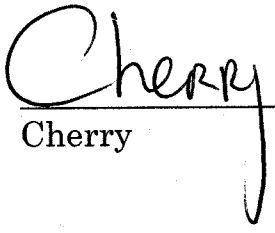
Having considered Stone's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.



_____, J.
Gibbons

_____, J.
Douglas



_____, J.
Cherry

cc: Hon. Donald M. Mosley, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk