

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH R. MOLNAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46679

FILED

MAY 03 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted burglary. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court sentenced Joseph R. Molnar to serve a prison term of 16 to 54 months.

Molnar 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, Molnar contends that the sentence imposed is too harsh given the fact that he did not physically injure any person or obtain any funds from the victim. We conclude that Molnar'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, Molnar 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 Molnar had three prior felony convictions and several grants of probation revoked, and the instant criminal offense arose when Molnar attempted to cash a forged check for approximately \$1800.00 at a casino. Accordingly, we conclude that the district court did not abuse its discretion

¹Blume 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)).

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

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

⁴See NRS 205.060(2); NRS 193.330(1)(a)(3); NRS 193.130(2)(c) (providing for a prison sentence of 1 to 5 Years).

at sentencing and that the sentence imposed does not constitute cruel and unusual punishment.

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

ORDER the judgment of conviction AFFIRMED.

Maupin, J.

Maupin
Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

cc: Hon. Valorie Vega, 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