

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHY A. SILVEIRA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47657

**FILED**

JAN 18 2007

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of exploitation of an elderly person. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge. The district court sentenced appellant Kathy Silveira to serve a prison term of 24 to 120 months and ordered her to pay \$122,833.29 in restitution.

Silveira contends that her sentence constitutes cruel and unusual punishment because it is unconstitutionally excessive. 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.<sup>1</sup> Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual

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<sup>1</sup>Harmelin 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."<sup>2</sup>

We have consistently afforded the district court wide discretion in its sentencing decision.<sup>3</sup> 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."<sup>4</sup>

Silveira does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional, and our review of the record reveals that the district court imposed a sentence that fell within the parameters provided by the relevant statute.<sup>5</sup>

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<sup>2</sup>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)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).


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

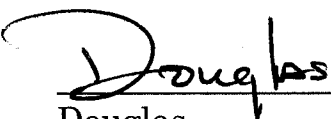
<sup>4</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

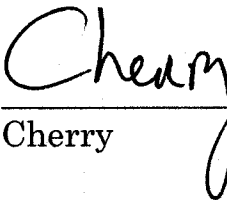
<sup>5</sup>See NRS 200.5099(3)(b) (a person who exploits an older person by taking assets or property worth at least \$250 but less than \$5,000 is guilty of a category B felony, which is punishable by a prison term of 2 to 10 years).

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. David R. Gamble, District Judge  
Nathan Tod Young  
Attorney Catherine Cortez Masto/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk