

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARNELL EDWARD ADAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48506

FILED

MAY 11 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of felony driving while under the influence of alcohol (DUI). Second Judicial District Court, Washoe County; Jerome Polaha, Judge. The district court sentenced appellant Darnell Edward Adams to serve a prison term of 18 to 60 months.

Adams contends that the district court abused its discretion at sentencing by refusing to impose the minimum sentence of 12 to 30 months. Adams claims that he should have received the minimum sentence given the he was an alcoholic and the instant offense arose from a "routine traffic violation." Additionally, Adams argues that the district court violated his right to be free from double jeopardy by imposing a harsher sentence based solely on his prior criminal convictions. Citing to the dissents in Tanksley v. State¹ and Sims v. State,² Adams contends that this court should review the sentence imposed by the district court to

¹113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

²107 Nev. 438, 441, 814 P.2d 63, 65 (1991) (Rose, J., dissenting).

determine whether justice was done. We conclude that Adams' contentions are without merit.

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.³ This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ 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."⁵ Moreover, 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."⁶

In the instant case, the district court did not rely on impalpable or highly suspect evidence and Adams does not allege that the relevant sentencing statute is unconstitutional. Moreover, we note that the sentence imposed by the district court was within the parameters

³Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

⁴Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

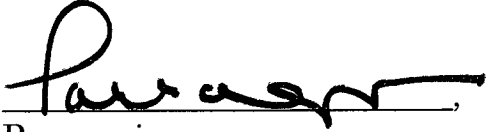
⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

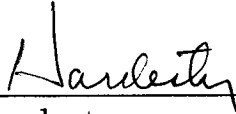
⁶Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

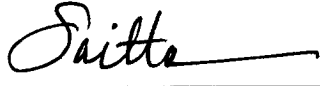
provided by the relevant statute.⁷ The record indicates that Adams had three DUI arrests within a one year period, and the district court commented that Adams had a "problem" with alcohol and "pose[d] a danger" to society. Before imposing sentence, the district court considered arguments from counsel, the presentence investigation report, and Adams' statement of allocution. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Adams' contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.⁸

 J.
Parraguirre

 J.
Hardesty

 J.
Saitta

⁷See NRS 484.3792(1)(c) (providing for a prison terms of 1 to 6 years).

⁸We note that Adams is represented by counsel in this matter and does not have permission to file documents in proper person in this court. See NRAP 46(b). Nonetheless, we have reviewed the documents that Adams has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted.

cc: Hon. Jerome Polaha, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Darnell Edward Adams