

IN THE SUPREME COURT OF THE STATE OF NEVADA

TOMAS GRANADOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48607

FILED

MAY 29 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of permitting child neglect resulting in substantial bodily or mental harm and one count of false imprisonment to avoid arrest. First Judicial District Court, Carson City; William A. Maddox, Judge. The district court sentenced appellant Tomas Granados to serve a prison term of 96 to 240 months for permitting child neglect and a consecutive prison term of 72 to 180 months for false imprisonment.

Granados asserts that even though he was the least culpable of the three defendants in this case, his counsel argued for leniency, and the State affirmatively recommended concurrent sentences, the district court chose to follow the Department of Parole and Probation's recommendation and impose maximum consecutive sentences. Granados contends that the district court's sentencing decision constituted an abuse of discretion and violated the constitutional proscriptions against cruel and/or unusual punishment.¹ We disagree.

¹See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6.

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.² 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."³

We have 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

Granados does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional, and our review of the record reveals that the district court imposed a sentence that fell within the parameters provided by the

²Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

³Blume 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).

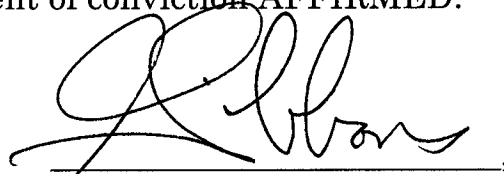
⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

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

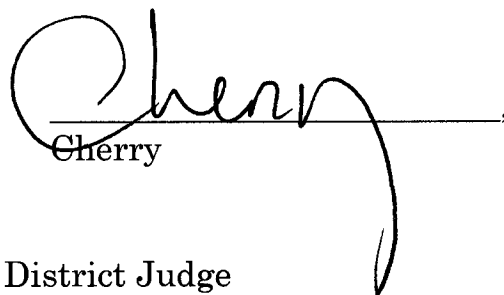
relevant statutes.⁶ We note that the district court has the discretion to impose consecutive sentences.⁷

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. William A. Maddox, District Judge
State Public Defender/Carson City
Attorney General Catherine Cortez Masto/Carson City
Carson City District Attorney
Carson City Clerk

⁶See NRS 193.130(1) ("The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed."); NRS 200.460(4) (false imprisonment to avoid arrest is punishable by a prison term of 1 to 15 years); NRS 200.508(2)(a)(2) (allowing or permitting child neglect or endangerment resulting in substantial bodily or mental harm is punishable by a prison term of 2 to 20 years).

⁷See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).