

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID CHARLES MOAYEDI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49510

**FILED**

OCT 03 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY J. Alvarado  
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of burglary and five counts of theft. Eighth Judicial District Court, Clark County; David Wall, Judge. The district court sentenced appellant David Charles Moayeddi to serve two consecutive prison terms of 24 to 96 months for the burglary counts and five concurrent terms of 19 to 48 months for the theft counts. Additionally, the district court ordered Moayeddi to pay restitution in the amount of \$27,518.74.

Moayeddi contends that the sentence imposed constitutes cruel and unusual punishment because it is disproportionate to the crimes. Moayeddi also contends that the district court abused its discretion in imposing consecutive sentences and failed to consider the mitigating evidence, including that Moayeddi had medical problems and a gambling addiction, the crimes were non-violent, Moayeddi had marketable job skills, and the victim suffered "a far lower financial loss than what was argued by the State." We conclude that Moayeddi's contentions lack merit.

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

In the instant case, Moayedí does not allege that the district court relied on impalpable or highly suspect evidence or the relevant statutes are unconstitutional. Further, we note that the sentences imposed are within the parameters provided by the relevant statutes and are not so disproportionate to the crimes as to shock the conscience.<sup>5</sup>

---

<sup>1</sup>Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

<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).

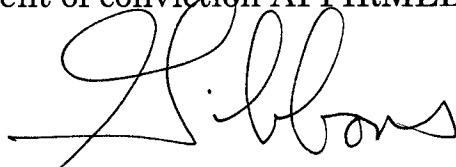
<sup>4</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

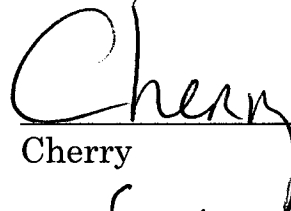
<sup>5</sup>See NRS 205.060(2); NRS 205.0835(4).


Finally, it is within the district court's discretion to impose consecutive sentences.<sup>6</sup> Accordingly, we conclude that the sentences imposed do not constitute cruel and unusual punishment, and the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Saitta

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

---

<sup>6</sup>See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).