

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIM FOWLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49845

FILED

OCT 22 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of attempted murder. Sixth Judicial District Court, Humboldt County; John M. Iroz, Judge. The district court sentenced appellant Jim Fowler to serve a prison term of 43 to 192 months.

Fowler 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.¹ 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.² Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual

¹See Solem v. Helm, 463 U.S. 277 (1983).

²Harmelin 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."³

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

In the instant case, Fowler does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁶ Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

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).

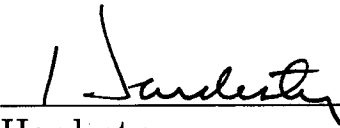
⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

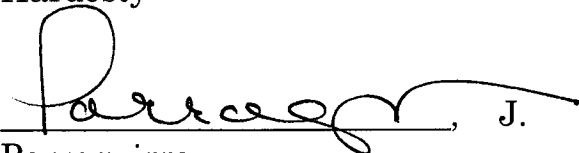
⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

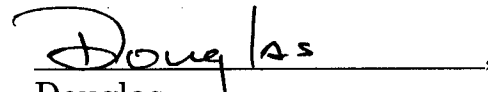
⁶See NRS 200.030 (murder is a category A felony); NRS 193.330(1)(a)(1) (an attempt to commit a category A felony is punishable by a prison term of 2 to 20 years).

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

ORDER the judgment of the district court AFFIRMED.⁷


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. John M. Iroz, District Judge
State Public Defender/Carson City
State Public Defender/Winnemucca
Matthew J. Stermitz
Attorney General Catherine Cortez Masto/Carson City
Humboldt County District Attorney
Humboldt County Clerk
Jim Fowler

⁷Because Fowler is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, we shall take no action and shall not consider the proper person documents that he has submitted to this court in this matter.