

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT JAMES HECKMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50907

**FILED**

DEC 23 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of four counts of burglary and one count of trafficking in a controlled substance. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Robert James Heckman to serve a prison term of 18 to 120 months for the first count of burglary, to run consecutively with a sentence in another case; two consecutive prison terms of 18 to 60 months for the second and third counts of burglary; a concurrent prison term of 18 to 60 months for the fourth count of burglary; and a concurrent prison term of 28 to 72 months for the trafficking count.

Heckman contends that the district court abused its discretion at sentencing. Heckman also contends that his counsel provided ineffective representation at sentencing. Heckman asserts that his counsel did not state at the sentencing hearing that he had reviewed the presentence investigation report with Heckman, and that counsel presented little mitigating evidence and did not provide an evaluation of his drug abuse problem or a copy of his GED certificate. Heckman seeks a

new sentencing hearing before a different district judge. We conclude that Heckman's contentions lack merit.

First, to the extent that Heckman challenges his counsel's representation at the sentencing hearing, the claim is not properly raised on direct appeal.<sup>1</sup> Second, we reject Heckman's challenge to the sentence imposed. While the district court's discretion is not limitless,<sup>2</sup> this court has 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> Despite its severity, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional and the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.<sup>5</sup>

Heckman's sentence is within the statutory parameters.<sup>6</sup> Heckman does not allege that the district court relied on impalpable or

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<sup>1</sup>Pellegrini v. State, 117 Nev. 860, 883, 34 P.3d 519, 534 (2001) (holding that claims of ineffective assistance of counsel are generally not appropriate for review on direct appeal).

<sup>2</sup>Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

<sup>3</sup>Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987).

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

<sup>5</sup>Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

<sup>6</sup>NRS 193.130(1) (stating that the minimum prison term imposed must not exceed forty percent of the maximum term imposed); NRS

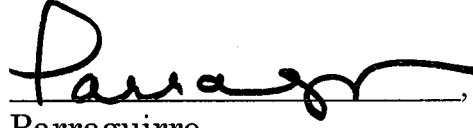
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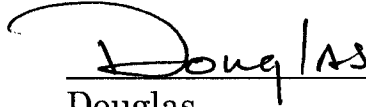
highly suspect evidence, nor does he assert that the presentence investigation report contained any errors. We therefore conclude that the district court did not abuse its discretion at sentencing.

Having considered Heckman's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

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

cc: Hon. Connie J. Steinheimer, District Judge  
Mary K. Kandaras  
Michael V. Roth  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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205.060(2) (providing that a conviction for burglary is punishable by a prison term of 1 to 10 years); NRS 453.3385(1) (setting forth a prison term of 1 to 6 years for possessing at least 4 grams but less than 14 grams of a Schedule 1 controlled substance).