IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 34623

DONALD CRAIG HENNAN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

APR 12 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sexual assault on a child under the age of sixteen years and lewdness with a minor under the age of fourteen years. The district court sentenced appellant to serve a term of life in prison with the possibility of parole after twenty (20) years for the sexual assault conviction and a consecutive term of life in prison with the possibility of parole after ten (10) years for the lewdness conviction. The court further ordered that upon release from prison, probation or parole, appellant will be subject to lifetime supervision. Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

Appellant 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. In particular, appellant argues that the sentence is grossly disproportionate considering the lesser sentence recommended by the Division of Parole and Probation and appellant's lack of a criminal history. 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. Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). 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.'" 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).

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987). 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. . . ." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

In the instant case, appellant 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. See NRS 200.366(3)(b); NRS 201.230. Moreover, the district court had discretion to order that the sentences be served consecutively. See NRS 176.035(1). Finally, after reviewing the documents submitted with this appeal, we conclude that the sentence imposed is not unreasonably disproportionate to the crime so as to shock the conscience. Accordingly, we conclude

that the sentence imposed does not constitute cruel and unusual punishment.

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

ORDER this appeal dismissed.

Maupin, J.
Maupin

Shearing, J.
Shearing

Becker, J.
Becker

cc: Hon. David A. Huff, District Judge
Attorney General
Lyon County District Attorney
Law Office of Kenneth V. Ward
Lyon County Clerk