IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN SCOTT MEYER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34667

FILED

JAN 26 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of three counts of lewdness with a child under the age of fourteen, and three counts of statutory sexual seduction. The district court sentenced appellant to two terms of ten (10) years each for two of the lewdness counts,[1] forty-eight (48) to one hundred twenty (120) months for the remaining lewdness count,[2] and three terms of twenty-four (24) to sixty (60) months each for the statutory sexual seduction counts. The district court ordered all terms to run consecutively.

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.[3] 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

[1]These two lewdness counts were committed between February 9, 1990, and June 30, 1995.

[2]This lewdness count was committed between July 1, 1995, and February 8, 1996.

[3]Appellant primarily relies on Solem v. Helm, 463 U.S. 277 (1983).

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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 sentences imposed were within the parameters provided by the relevant statutes at the time of the commission of the crimes. See 1995 Nev. Stat., ch. 443, §89, at 1200; 1997 Nev. Stat., ch. 455, §5, at 1722; 1997 Nev. Stat., ch. 455, §9, at 1723; NRS 200.368; NRS 193.130. 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.

Shearing, J.

Becker, J.

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