IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW ZACHARY GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52006

FILED

JAN 26 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of three counts of burglary. Fifth Judicial District Court, Nye County; John P. Davis, Judge. The district court sentenced appellant Matthew Zachary Green to three consecutive prison terms of 48 to 120 months.

Green's sole contention is that the district court abused its discretion in imposing an excessive sentence. Specifically, Green argues that the district court violated the Eighth Amendment prohibition against cruel and unusual punishment in imposing sentences that were disproportionate to the seriousness of the offenses.

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

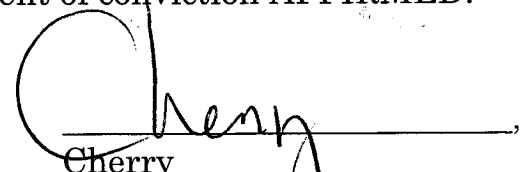
the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (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).

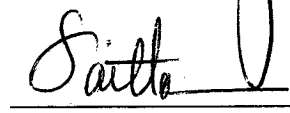
In the instant case, Green does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentences imposed were within the parameters provided by the relevant statute. See NRS 205.060(2). Moreover, it is within the district court's discretion to impose consecutive sentences. See NRS 176.035(1); Arajakis v. State, 108 Nev. 976, 984, 843 P.2d 800, 805 (1992). Finally, we disagree that the sentences were so disproportionate to the offenses as to shock the conscience. The charged offenses involved Green burglarizing various homes and taking property valued at over $150,000 from numerous victims. Accordingly, the sentence imposed does not constitute cruel and unusual punishment.

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

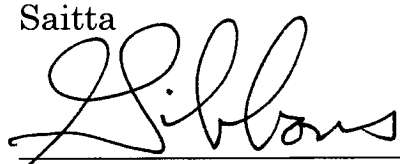
ORDER the judgment of conviction AFFIRMED.



_____, J.
Cherry



_____, J.
Saitta



_____, J.
Gibbons

cc: Hon. John P. Davis, District Judge
Michael P. Printy
Attorney General Catherine Cortez Masto/Carson City
Nye County District Attorney/Pahrump
Nye County District Attorney/Tonopah
Nye County Clerk