

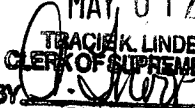
IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID ANTHONY JOYCE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52335

**FILED**

ORDER OF AFFIRMANCE

MAY 01 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of burglary. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. The district court adjudicated appellant David Joyce a habitual criminal and sentenced him to serve a prison term of 8 to 20 years.

Joyce contends that the district court abused its discretion at sentencing. Specifically, Joyce claims that because no one was physically injured in the burglary, the sentence imposed constituted cruel and unusual punishment.

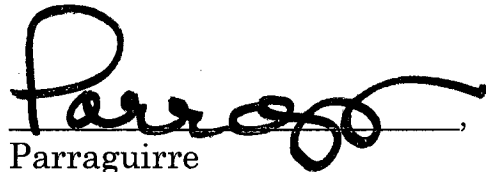
We have consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will refrain from interfering with the sentence imposed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). 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)).

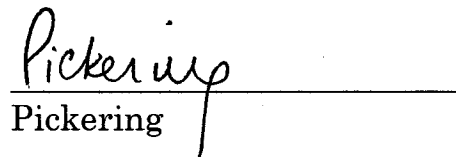
Here, Joyce has not alleged that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute, and that Joyce stipulated to the sentence in his guilty plea agreement. See NRS 207.010(1)(a). Accordingly, we conclude that Joyce’s sentence does not constitute cruel and unusual punishment.

Having considered Joyce’s contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Valerie Adair, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk