

IN THE SUPREME COURT OF THE STATE OF NEVADA

CONCEPCION MARTINEZ
LANDEROS, A/K/A CONCEPCION M.
LANDEROS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53451

FILED

SEP 23 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 one count of possession of stolen property. Eighth Judicial District Court, Clark County; David Wall, Judge. The district court sentenced appellant Concepcion Martinez Landeros to serve a prison term of 12 to 30 months.

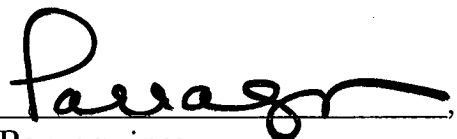
Landeros' sole contention on appeal is that the district court abused its discretion at sentencing. Specifically, Landeros contends that because the victim suffered no physical injury, the length of his prison term is so disproportionate to the crime that it amounts to cruel and unusual punishment in violation of the Nevada Constitution. See Nev. Const. art. I, §6.

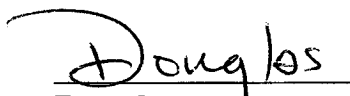
The United States and Nevada Constitutions do not require strict proportionality between crime and sentence, but forbid only an extreme sentence that is grossly disproportionate to the crime. Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376,

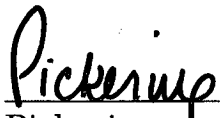
1379 (1987). The district court's discretion, however, is not limitless. Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Nevertheless, we will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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). 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. Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

Landeros does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. In fact, the sentence imposed was the minimum prison term provided by the relevant statutes. See NRS 205.275(2)(b); NRS 193.130(2)(c). Therefore, we conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. David Wall, 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