IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY RICHMOND A/K/A TERRY F. RICHMOND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53816

FILED

DEC 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingersoll
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count each of burglary and grand larceny. Eighth Judicial District Court, Clark County; David B. Barker, Judge. The district court adjudicated appellant Terry Richmond a habitual criminal and sentenced her to seve two concurrent prison terms of 96 to 240 months.

Richmond contends that the district court abused its discretion at sentencing. Specifically, Richmond contends that the sentence imposed constitutes cruel and unusual punishment because the crimes committed were nonviolent, she took full responsibility for the crimes by pleading guilty, and her prior felony convictions were remote in time.

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



09-29445

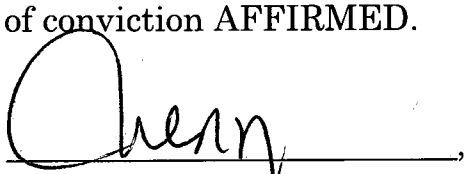
with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

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).

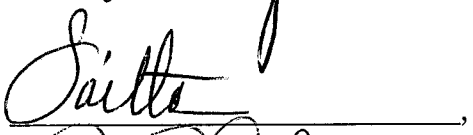
In the instant case, Richmond does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, the sentence imposed is within the parameters provided by the relevant statute. See NRS 207.010(1)(a). Having considered Richmond's 6 prior felony convictions and 15 arrests in the prior 18 months, the district court found that adjudication as a small habitual criminal rather than a large habitual criminal was appropriate. We conclude that this adjudication and the sentences imposed are not so unreasonably disproportionate to the offense as to shock the conscience,

and the district court did not abuse its discretion in sentencing Richmond. Accordingly, we

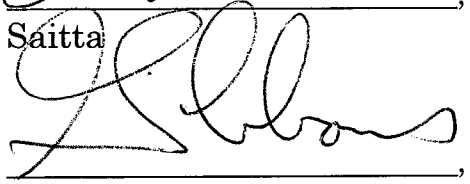
ORDER the judgment of conviction AFFIRMED.



_____, J.
Cherry



_____, J.
Saitta



_____, J.
Gibbons

cc: Hon. David B. Barker, 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