

IN THE SUPREME COURT OF THE STATE OF NEVADA

UDILBERTO PEREZ-SORIDIA A/K/A
UDILBERTO PEREZ-ISORDIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53985

FILED

OCT 27 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of trafficking in a controlled substance. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant to serve a prison term of 26 to 120 months.

Appellant claims that the district court abused its discretion at sentencing. Specifically, appellant argues that because of his young age and his lack of a prior criminal history the sentence imposed was excessive. Citing to the dissents in Tanksley v. State, 113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting), and Sims v. State, 107 Nev. 438, 441, 814 P.2d 63, 65 (1991) (Rose, J., dissenting), for support, appellant argues that this court should review the sentence imposed by

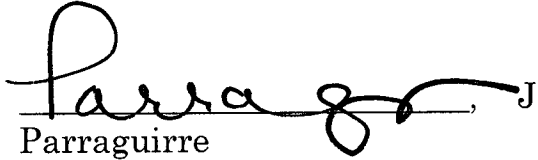
the district court to determine whether justice was done. We conclude this claim lacks merit.

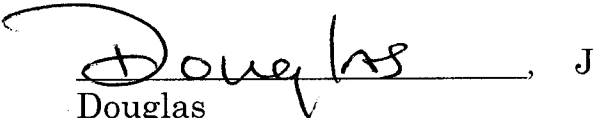
The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime. Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). This court has consistently 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).

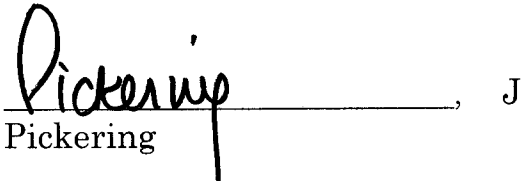
Here, appellant does not allege that the relevant sentencing statute is unconstitutional or that the district court relied on impalpable or highly suspect evidence. In fact, the sentence imposed by the district court was within the parameters provided by the relevant statute. See

NRS 453.3385(2). 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. Janet J. Berry, District Judge
Jenny Hubach
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk