

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARRYL LEE SANDERS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54005

**FILED**

JAN 07 2010

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

ORDER OF AFFIRMANCE

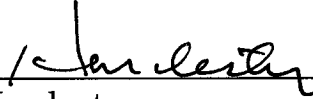
This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of burglary. Eighth Judicial District Court, Clark County; David B. Barker, Judge. The district court adjudicated appellant Darryl Lee Sanders a habitual criminal and sentenced him to serve a prison term of 96 to 240 months.


Sanders contends that the sentence imposed constitutes cruel and unusual punishment because it is disproportionate to the crime of burglary. We disagree. The sentence imposed is within the statutory limits. NRS 207.010(1). We conclude that the sentence is not so disproportionate to the crime as to shock the conscience because Sanders had eight prior felony convictions. Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). Further, Sanders does not assert that the relevant statute is unconstitutional, id., or that the district court relied on impalpable or highly suspect evidence, Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment and the district court did not abuse its discretion in imposing Sanders' sentence. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987).


Sanders also raises an unspecified claim of ineffective assistance of counsel. This court will generally not consider claims of ineffective assistance of counsel on direct appeal; such claims must be presented to the district court in the first instance in a post-conviction proceeding where factual uncertainties can be resolved in an evidentiary hearing. See Johnson v. State, 117 Nev. 153, 160-61, 17 P.3d 1008, 1013 (2001). We conclude that Davis has failed to provide this court with any reason to depart from this policy in his case, and this issue has not been appropriately raised on direct appeal. See id. at 160-61, 17 P.3d at 1013-14.

Having considered Sanders' contentions and concluded that they lack merit or are not appropriately raised on direct appeal, we

ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, J.  
Hardesty

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Pickering

cc: Hon. David B. Barker, District Judge  
Kelly & Sullivan, Ltd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk