IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSOLINO FRANK PASSALACQUA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34964

FILED

MAY 10 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of trafficking in a controlled substance. The district court sentenced appellant to a prison term of twenty years with minimum parole eligibility of seven years. The district court also ordered appellant to pay a $5,000.00 fine and a $25.00 administrative fee.

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentence is disproportionate to the crime. Appellant also contends that the district court abused its discretion in imposing the sentence. We disagree.

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)

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(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).

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987). This court 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).

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note, and appellant concedes, that the sentence imposed was well within the parameters provided by the relevant statute. See NRS 453.3385(3). Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment and that the district court did not abuse its discretion.

Having considered appellant's contention and concluded that it is without merit, we

ORDER this appeal dismissed.[1]

Young, J.

Agosti, J.

Leavitt, J.

[1]We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. David R. Gamble, District Judge
Attorney General
Douglas County District Attorney
Dennis A. Cameron
Douglas County Clerk