IN THE SUPREME COURT OF THE STATE OF NEVADA

JERROD G. BLACKWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54923

FILED

FEB 09 2011

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 grand larceny. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Blackwell's sole contention on appeal is that his sentence as a habitual criminal constitutes cruel and unusual punishment under the Eighth Amendment because the sentence is disproportionate to his crime. In this, he argues that he simply "snatch[ed] a purse slung over a chair and attempt[ed] to run away" and his criminal history shows that he is "a career thief, nothing more." He also suggests that NRS 207.010 is primarily reserved for repeat violent offenders.

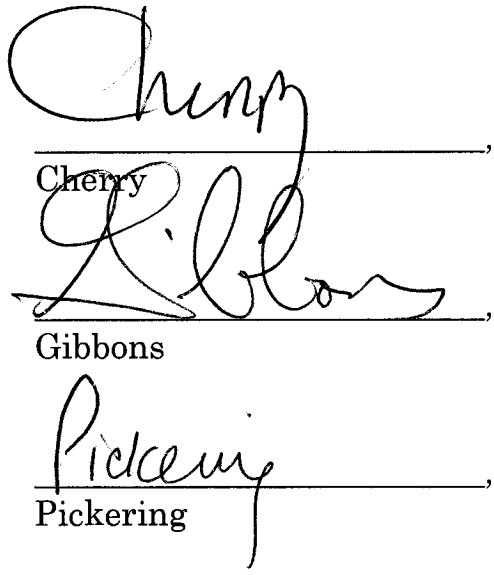
The Eighth Amendment does not require strict proportionality between crime and sentence but forbids only an extreme sentence that is grossly disproportionate to the crime. Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). Regardless of its severity, a sentence that is within the 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)). 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), and will refrain from interfering with the sentence imposed where the record does not show prejudice resulting from the consideration of "impalpable or highly suspect evidence." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

Here, Blackwell was sentenced to life in prison with the possibility of parole after ten years, which falls within the parameters provided by NRS 207.010(1), and he does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Additionally, he has not shown that the district court abused its discretion in adjudicating him as a habitual criminal. Despite Blackwell's claim that the statute is primarily reserved for repeat violent offenders, that statute "makes no special allowance for non-violent crimes" but rather leaves that consideration to the district court's discretion. Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992). And Blackwell's claim that his criminal history reflects that he is merely "a career thief" is belied by the record as the six felonies supporting the habitual criminal adjudication involve receiving stolen property, possession of a controlled substance, attempted burglary, forgery, grand larceny, and attempted possession of a controlled substance. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered Blackwell's arguments and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.



_____, J.
Cherry

_____, J.
Gibbons

_____, J.
Pickering

cc: Hon. David B. Barker, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk