

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMON VILLA CONTRERAS A/K/A
ADOLFO JAVIER VILLA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55966

FILED

MAR 17 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, for attempted burglary. Eighth Judicial District Court, Clark County; Michael Villani, Judge. On appeal, appellant Ramon Villa Contreras raises two issues.

First, Contreras challenges the validity of his guilty plea based on the failure to ensure that his waiver of constitutional rights was knowing and voluntary. He asserts that he has the right to appeal all aspects of his conviction because he pleaded guilty without the benefit of a guilty plea agreement. Regardless of whether Contreras received a benefit from his guilty plea agreement, he cannot raise claims that attack the validity of the plea on direct appeal. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). The record does not indicate that Contreras challenged the validity of his guilty plea in the district court, therefore, his claim is not appropriate for review on direct appeal from the judgment of conviction. Id.

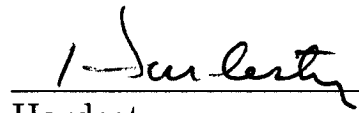
Second, Contreras argues that the district court erred in adjudicating him a habitual criminal because the sentence is grossly disproportionate to the crime and was based on a misunderstanding about his criminal history. We disagree. Having found four prior felony

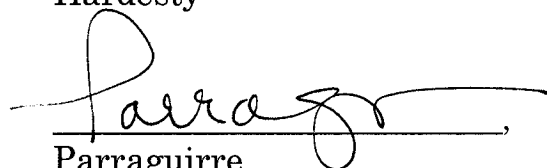
convictions, the district court adjudicated Contreras a habitual criminal. While Contreras now contends he was only sentenced twice for the convictions supporting the district court's adjudication, he did not object on this basis below. The sentence imposed is within the statutory limits, see NRS 207.010(1)(b), and Contreras has not alleged that the sentencing statutes are unconstitutional. We conclude that the sentence imposed is not grossly disproportionate to the offense for purposes of the constitutional prohibitions against cruel and unusual punishment. See Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996); Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). Further, "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). Accordingly, we conclude that the district court did not abuse its discretion and the sentences imposed do not constitute cruel and unusual punishment.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Michael Villani, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk