

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON ANTHONY PERRI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56173

FILED

NOV 05 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, pursuant to a guilty plea, of burglary. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant Jason Anthony Perri contends that the district court abused its discretion by relying on erroneous information, deviating from the sentence stipulation, and imposing a sentence constituting cruel and unusual punishment. See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6. This court will not disturb a district court's sentencing determination absent an abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Perri has failed to demonstrate that the district court relied on impalpable or highly suspect evidence, the relevant sentencing statute 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); see Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). Perri's 24-84 month prison term falls within the parameters provided by statute. See NRS 205.060(2). Both the guilty plea agreement and arraignment transcript indicate that Perri was advised that the district court was not obligated to follow the

sentencing recommendation and that "sentencing is strictly up to the court and no one can promise [him] leniency or any special treatment." Therefore, we conclude that the district court did not abuse its discretion at sentencing and the sentence does not constitute cruel and unusual punishment, and we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

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