

IN THE SUPREME COURT OF THE STATE OF NEVADA

COLE LEE FELIPE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56290

**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 two counts of possession of a visual presentation depicting the sexual conduct of a child. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant Cole Lee Felipe contends that the district court abused its discretion by imposing a sentence constituting cruel and unusual punishment because it is disproportionate to the offense. See U.S. Const. amend. VIII. 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). Felipe has not alleged that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statute is unconstitutional. See Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996); Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). The two prison terms of 12-30 months fall within the parameters provided by statute, NRS 200.730(1), and are not "so unreasonably disproportionate to the offense as to shock the conscience." Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

Further, it was within the district court's discretion to order them to run consecutively. See NRS 176.035(1). Therefore, we conclude that the district court did not abuse its discretion at sentencing and the sentence imposed does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. David B. Barker, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Public Defender  
Eighth District Court Clerk