

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD BENJAMIN FERST, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58679

**FILED**

JUN 13 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Anderson*  
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; Elissa F. Cadish, Judge.


Appellant Richard Benjamin Ferst, Jr., contends that the district court abused its discretion by imposing an excessive and disproportionate sentence which shocks the conscience and amounts to cruel and unusual punishment. We disagree.

This court will not disturb a district court's sentencing determination absent an abuse of discretion. See Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Ferst has not alleged that the district court relied solely on impalpable or highly suspect evidence or demonstrated that the sentencing statute is unconstitutional. See Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 489-90 (2009). Ferst's prison term of 72-240 months falls within the parameters provided by the relevant statute, see NRS 207.010(1)(a), and the sentence is not so unreasonably disproportionate to the gravity of the offense and his history of recidivism as to shock the conscience, see Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); Harmelin v. Michigan, 501 U.S. 957,

1000-01 (1991) (plurality opinion). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Elissa F. Cadish, District Judge  
Carl E. G. Arnold  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk