

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDALL CURTIS MESCALL A/K/A
ROBIN STONE,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58999

FILED

APR 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
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 controlled substance, third offense. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellant Randall Curtis Mescall contends that the district court abused its discretion by imposing a disproportionate sentence constituting cruel and/or unusual punishment because he is in poor health and committed a non-violent felony. 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). Mescall has not alleged that the district court relied solely on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. See Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 489-90 (2009). Mescall's concurrent prison terms of 16-48 months, ordered to run concurrently to the sentence imposed in another case, fall within the parameters provided by the relevant statutes, see NRS 453.336(2)(b); NRS 193.130(2)(d), and are not "so unreasonably disproportionate to the offense[s] 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). Therefore, we conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Valerie Adair, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk