

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES ALLEN KNECHT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59542

**FILED**

**MAY 09 2012**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malou  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of burglary and uttering a forged instrument. Third Judicial District Court, Lyon County; William Rogers, Judge.

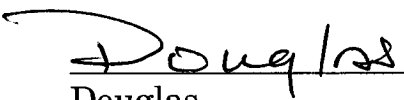
Appellant James Allen Knecht contends that the district court abused its discretion in determining the amount of restitution because it included losses from other crimes that he was not charged with committing. The district court based the amount of restitution on the presentence investigation report, which detailed losses suffered by the victims. Because Knecht did not object to the report or the restitution amount and the record on appeal is inadequate for plain error review, we decline to consider this issue. See Martinez v. State, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999); Johnson v. State, 113 Nev. 772, 776, 942 P.2d 167, 170 (1997).


Knecht also contends that his 48- to 120-month prison sentence for burglary constitutes cruel and unusual punishment because it is the maximum sentence that could be imposed, he received this sentence even though he pleaded guilty and accepted responsibility for his crime,

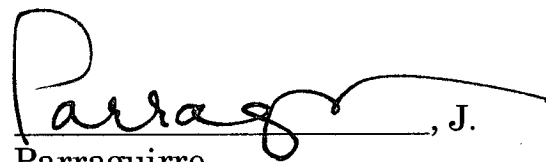
and it is unreasonably disproportionate to his offense.<sup>1</sup> Because Knecht does not argue that the relevant statute is unconstitutional, his sentence is within the parameters of that statute, see NRS 205.060(2), and we are not convinced that the sentence is unreasonably disproportionate to the gravity of his offense, we conclude that the sentence does not violate the constitutional proscriptions against cruel and unusual punishment, see Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion); Chavez v. State, 125 Nev. 328, 347-48, 213 P.3d 476, 489-90 (2009).

Having considered Knecht's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. William Rogers, District Judge  
Stephen B. Rye  
Attorney General/Carson City  
Lyon County District Attorney  
Lyon County Clerk

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<sup>1</sup>Knecht does not challenge the concurrent 19- to 48-month sentence he received for uttering a forged instrument.