

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID ALAN SILVA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61245

**FILED**

**APR 09 2013**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted sexual assault with a minor under fourteen years of age and attempted lewdness with a child under the age of fourteen. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.


Appellant claims that the district court abused its discretion in sentencing him and his sentence constitutes cruel and unusual punishment in violation of the United States and Nevada Constitutions. The district court sentenced appellant to serve two consecutive terms of 4 to 10 years in the Nevada State Prison, as stipulated to by the parties.

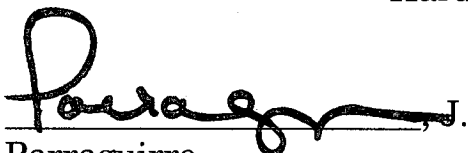
The district court is afforded considerable discretion in imposing a sentence. Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will refrain from interfering with the sentence imposed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence that falls within the statutory limits is not considered cruel and unusual punishment “unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.” Blume v.

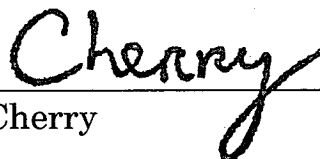
State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (internal quotation marks omitted); see also Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

Appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional, and his sentence is within the parameters of the applicable statutes. See NRS 200.366, NRS 201.230, NRS 193.330. Appellant admitted to sexually molesting a child, and his sentence is not so disproportionate to his criminal acts as to shock the conscience. Therefore, we conclude that the imposed sentences do not constitute cruel and unusual punishment and the district court did not abuse its discretion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Elissa F. Cadish, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk