

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS LEE FRIEDRICHSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35807

FILED

MAY 30 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance. The district court sentenced appellant to 12 to 48 months in prison.¹

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentence is disproportionate to the crime.² We disagree.

The Eighth Amendment does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime. *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion). Regardless of its severity, a sentence that is within the statutory limits is not "'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)

¹Although convicted of a Category E felony, appellant was not placed on probation because his probation had been revoked in a previous case. See NRS 176A.100(1)(b)(2).

²Appellant primarily relies on *Solem v. Helm*, 463 U.S. 277 (1983).

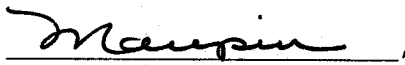
(quoting *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also *Glegola v. State*, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

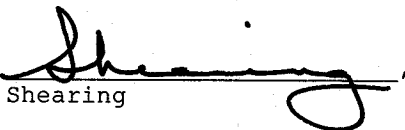
This court has consistently afforded the district court wide discretion in its sentencing decision. See *Houk v. State*, 103 Nev. 659, 747 P.2d 1376 (1987). This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration 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).


In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes. See NRS 453.336(2)(a); NRS 193.130(2)(e). Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contention and concluded that it is without merit, we

ORDER this appeal dismissed.


Maupin J.


Shearing J.


Becker J.

cc: Hon. Richard A. Wagner, District Judge
Attorney General
Humboldt County District Attorney
State Public Defender
Humboldt County Clerk