IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY JOE MASON, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35830

FILED

JUL 10 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sexual assault with a minor under sixteen years of age, and lewdness with a child under the age of fourteen. The district court sentenced appellant, for the sexual assault to 96 to 240 months in prison. For lewdness with a child under the age of fourteen, the district court sentenced appellant to 48 to 120 months in prison. Both sentences are to run consecutively. Further, upon release appellant will be subject to lifetime supervision and must register as a sex offender.[1]

Appellant contends the sentences constitute cruel and unusual punishment in violation of the United States and

[1]Additionally, the district court ordered appellant to pay $1,000.00 in restitution to the victim, $1,432.56 in extradition costs, and $250.00 in fees for genetic marker testing.

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Nevada constitutions because the sentences are disproportionate to his crimes.[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) (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).

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

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 the sentences imposed were within the parameters provided by the relevant statutes. See NRS 200.366 (1995); NRS 201.230 (1995). Accordingly, we conclude the imposed sentences do not constitute cruel and unusual punishment.

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

ORDER this appeal dismissed.

Young, J.

Agosti, J.

Leavitt, J.

cc: Hon. Kathy A. Hardcastle, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk