

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCUS RUSSELL HUBER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66717

FILED

JUN 10 2015

TACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *M. W. Cap*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of burglary. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.


Appellant Marcus Russell Huber contends that the district court abused its discretion by imposing an excessive and disproportionate sentence constituting cruel and unusual punishment. Huber argues that the parties jointly recommended a much lower prison term of 19-48 months, his "offense was merely a property crime," and he cooperated and accepted responsibility "by pleading guilty to the only charged offense." We disagree with Huber's contention.

This court will not disturb a district court's sentencing determination absent an abuse of discretion. *Parrish v. State*, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). A district court is not obligated to follow the parties' negotiated sentencing recommendations. *See generally Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972) (a district court does not abuse its discretion by declining to follow sentencing recommendations). Further, Huber 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.


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328, 347-48, 213 P.3d 476, 489-90 (2009). Huber's prison term of 48-120 months, ordered to run consecutively to the sentence imposed in district court case number C276460, falls within the parameters provided by the relevant statute, *see* NRS 205.060(2); *see also* NRS 176.035(1), and is not so unreasonably disproportionate to the gravity of the offense as to shock the conscience, *see 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). We conclude that the district court did not abuse its discretion at sentencing, and we

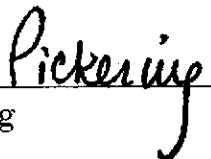
ORDER the judgment of conviction AFFIRMED.



Saitta J.



Gibbons J.



Pickering J.

cc: Eighth Judicial District Court Dept. 15
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk