

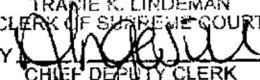
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVON XAVIER LYONS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67444

FILED

AUG 25 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of kidnapping, two counts of conspiracy to commit robbery, robbery with the use of a deadly weapon, conspiracy to commit kidnapping, robbery with the use of a deadly weapon victim 60 years of age or older, burglary, and possession of stolen property. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Appellant Davon Lyons asserts that the district court abused its discretion at sentencing by imposing an aggregate term of 19-60 years, which he asserts is an unduly harsh sentence.


We have consistently afforded the district court wide discretion in its sentencing decision. *See, e.g., Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will refrain from interfering with the sentence imposed by the district court “[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). Regardless of its severity, a sentence that is within the statutory limits is not “cruel and unusual punishment unless the statute fixing

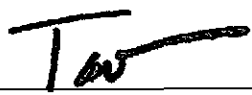
15-900964

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 *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

Here, Lyons engaged in three armed robberies in which several of the victims were 60 years of age or older. Lyons also pawned some of the valuables that were taken during the robberies. The sentence imposed is within the parameters provided by the relevant statutes. See NRS 193.165; NRS 199.480(1)(a); NRS 200.320(2)(b); NRS 200.380(2); NRS 205.060(2); NRS 205.275(2)(c). Lyons does not allege that those statutes are unconstitutional. Lyons also does not allege that the district court relied on impalpable or highly suspect evidence. Having considered the sentence and the crime, we conclude the sentence imposed is not so grossly disproportionate to the crime as to constitute cruel and unusual punishment. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Carolyn Ellsworth, District Judge
Mace J. Yampolsky, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk