IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID MIRANDA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36233

FILED

SEP 19 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 nolo contendere plea,[1] of one count each of child abuse and neglect with substantial mental injury and open or gross lewdness. The district court sentenced appellant to serve concurrent terms of 40 to 120 months in prison and 1 year in jail.

Appellant first contends that the State failed to give appellant proper notice of the grand jury proceedings as required by NRS 172.241 and failed to present allegedly exculpatory evidence to the grand jury in violation of NRS 172.145(2). However, by entering a nolo plea, appellant waived all errors arising prior to the plea. See Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984); Webb v. State, 91

[1]Appellant pleaded guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).

Nev. 469, 538 P.2d 164 (1975). Accordingly, we conclude that appellant is not entitled to relief on these claims.

Appellant next contends that the sentence constitutes cruel and unusual punishment in violation of the Nevada Constitution because the sentence is disproportionate to the crime. We disagree.

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).

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

200.508(2)(b); NRS 201.210; NRS 193.140. Finally, we conclude that the sentence imposed is not so unreasonably disproportionate to the offense as to shock the conscience. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contentions and concluded they are without merit, we

ORDER this appeal dismissed.

Young, J.

Maupin, J.

Becker, J.

cc: Hon. Sally L. Loehrer, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk