IN THE SUPREME COURT OF THE STATE OF NEVADA

LINDA HAMILTON LITTLE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36339

FILED

OCT 02 2000

JANETTE M. BLOOM
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,[1] of one count of obtaining money under false pretenses from a person over the age of 65. The district court sentenced appellant to a prison term of 14 to 36 months with an equal and consecutive term for the elder enhancement.

Appellant first contends that the district court relied on impalpable or highly suspect evidence at sentencing. Specifically, appellant argues that a multi-volume report submitted to the district court is full of irrelevant and prejudicial information.[2]

We conclude that we need not consider this issue because appellant failed to object to the report at sentencing. See Smith v. State, 112 Nev. 871, 920 P.2d 1002 (1996); Emmons v. State, 107 Nev. 53, 61, 807 P.2d 718, 723 (1991) (as a general rule, the failure to object below bars appellate review, except in cases of plain error or errors of

[1]Appellant entered a plea of nolo contendere.

[2]The report was the result of criminal investigations of appellant by various law enforcement agencies, and contained information regarding appellant's financial status and her connection with the victims. The report was proffered as a factual basis for appellant's plea.

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constitutional dimension). Moreover, based on our review of the record, it appears that although the district court received the report, it did not rely solely on the report in determining the appropriate sentence. 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). Accordingly, we conclude that appellant's contention lacks merit.

Appellant next 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.[3] 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).

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

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).

In the instant case, appellant does not allege that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes. See NRS 205.380(1)(a); NRS 193.167(1). Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contentions and concluded that they are without merit, the judgment of the district court is affirmed.

It is so ORDERED.

Young, J.

Maupin, J.

Becker, J.

cc: Hon. Dan L. Papez, District Judge
Attorney General
Eureka County District Attorney
State Public Defender
Eureka County Clerk

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