

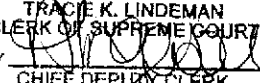
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID HAROLD RAINEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69982

FILED

JUL 27 2016

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 obtaining and using personal identification information of another. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant David Harold Rainey argues his sentence is cruel and unusual because his sentence is disproportionate to his crime. "A sentence 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) (internal quotation marks omitted). Rainey's sentence of 8 to 20 years, consecutive to a sentence in a separate case, falls within the parameters of the relevant statutes, *see* NRS 176.035(1); NRS 207.010(1)(a), and Rainey makes no argument that the statutes are unconstitutional. In addition, Rainey's lengthy history of recidivism was properly considered when imposing sentence and, under these circumstances, his sentence is not so unreasonably disproportionate to his crimes so as to shock the conscience. *See Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion);


Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).
Therefore, we conclude this claim lacks merit.


To the extent Rainey also argues the district court abused its discretion when imposing sentence, we conclude that claim lacks merit. The district court has wide discretion in its sentencing decision. *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere 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).

As stated previously, Rainey’s sentence fell within the parameters of the relevant statutes, see NRS 176.035(1); NRS 207.010(1)(a), and Rainey has not alleged the district court relied on impalpable or highly suspect evidence. Therefore, Rainey is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk