

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DUPREE DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70619

FILED

DEC 14 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Dupree Davis appeals from a judgment of conviction entered pursuant to a guilty plea of attempted possession of stolen property. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Davis claims the district court abused its discretion by sentencing him to a prison term of 16 to 48 months and his sentence constitutes cruel and unusual punishment because he took responsibility for his crime and pleaded guilty and he was in the midst of fighting two other criminal cases.

The district court has wide discretion in its sentencing decision. See *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). 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

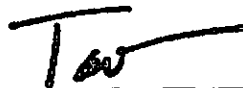
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the sentence is so unreasonably disproportionate to the offense as to shock the conscience.” *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also *Harmelin 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).

Davis’ sentence falls within the parameters of the relevant statutes, see NRS 193.130(2)(d); NRS 193.330(1)(a)(4); NRS 205.275(2)(b), and he has not alleged those statutes are unconstitutional or the district court relied on palpable or highly suspect evidence. We note the district court expressed concern that the stolen property consisted of three firearms. We conclude the district court did not abuse its discretion at sentencing, the sentence imposed is not so grossly disproportionate to the crime, and sentence does not constitute cruel and unusual punishment.

Having concluded Davis is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

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