


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD STEVEN GRAYSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72490

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  -
DEPUTY CLERK

ORDER OF AFFIRMANCE

Richard Steven Grayson appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of statutory sexual seduction. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.


Grayson argues the district court abused its discretion at sentencing and his sentence constitutes cruel and unusual punishment. Specifically, he claims the Division of Parole and Probation recommended probation, he is only a low-moderate risk to reoffend, he has no criminal history, the victim was only three months shy of 16 when their relationship began, it was a consensual relationship, he took the relationship seriously, he admitted his deeds and cooperated with the police, and he is college educated and employed.


The district court has wide discretion in its sentencing decision, including whether to grant probation. See NRS 176A.100(1)(c); *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 "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 *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).

The sentence of two consecutive terms of two to five years in prison is within the parameters provided by the relevant statute, see NRS 200.368(1), and Grayson does not allege the statute is unconstitutional. Grayson also does not allege the district court relied on impalpable or highly suspect evidence. We have considered the sentence and the crime and we conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment, and the district court did not abuse its discretion when imposing sentence. We also conclude the district court did not abuse its discretion by declining to suspend the sentence and place Grayson on probation. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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