

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAVERN CHARLES FASTHORSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72306

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Lavern Charles Fasthorse appeals from a judgment of conviction, entered pursuant to a guilty plea, of theft. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Fasthorse claims the district court abused its discretion at sentencing and his sentence constitutes cruel and unusual punishment. Specifically, he claims he took responsibility for his crime and plead guilty, the crime was nonviolent and was more of a civil matter, and another defendant present in court on the day of sentencing who had a lengthy criminal record received probation.


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 within the statutory limits is not ‘cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably

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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 imposed of 42 to 108 months in prison is within the parameters provided by the relevant statute, see NRS 205.0835(4), and Fasthorse does not allege the statute is unconstitutional. Fasthorse also does not allege the district court relied on impalpable or highly suspect evidence. We note the parties stipulated to a sentence of 42 to 108 months in prison in the guilty plea agreement. 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. Therefore, we

ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Silver


_____, J.
Gibbons

¹The Honorable Jerome T. Tao did not participate in the decision of this matter.

cc: Hon. Elissa F. Cadish, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk