

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN EDMISTEN, A/K/A JUSTIN
JAMES EDMINSTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73354

FILED

FEB 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Justin Edmisten appeals from a judgment of conviction, pursuant to a guilty plea, for conspiracy to commit a crime. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.¹

Edmisten contends his sentence is cruel and unusual and the district court abused its discretion in imposing it. The district court has wide discretion in its sentencing decision. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). 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)


¹Hearing Master Jennifer Henry pronounced judgment, and the Honorable Douglas Smith signed the judgment of conviction.

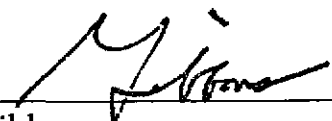
(quoting *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (J. Kennedy, concurring) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

The sentence imposed is within the parameters provided by the relevant statutes, see NRS 193.140; NRS 199.480(3), and Edmisten does not allege those statutes are unconstitutional. Edmisten also does not allege the district court relied on palpable 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, it does not constitute cruel and unusual punishment, and the district court did not abuse its discretion when imposing sentence. Moreover, we note Edmisten received the sentence he bargained for. For the foregoing reasons, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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