IN THE SUPREME COURT OF THE STATE OF NEVADA

GUILLERMO B. MANZANEDO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36694

FILED

SEP 27 2001

JANETTE M. BLOOM
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 one count each of lewdness with a child under the age of 14 years, sexual assault with a child under the age of 16 years, and attempted sexual assault with a child under the age of 16 years. The district court sentenced appellant to serve a term of life in prison with the possibility of parole after 10 years for the lewdness conviction, a term of 5 to 20 years in prison for the sexual assault conviction, and a term of 2 to 20 years in prison for the attempted sexual assault conviction. The district court further ordered that all of the sentences be served consecutively. Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

Appellant first contends that his guilty plea was not voluntarily entered because he signed the plea agreement under duress. Appellant does not specify the nature of the duress, nor does it appear from the record. This absence of evidence is one of the primary reasons that this court decided in Bryant v. State that it would "no longer permit a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction."[1] We decline appellant's invitation to overrule Bryant. Appellant must raise this issue in the district court in the first instance by bringing a motion to withdraw the guilty plea or by commencing a post-conviction proceeding pursuant to NRS chapter 34.[2]

[1]Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

[2]Id.

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Accordingly, we decline to consider the merits of appellant's challenge to the validity of his guilty plea.

Appellant next contends that the sentence constitutes cruel and unusual punishment in violation of the United States Constitution because the sentence is disproportionate to the crime. We disagree.

The Eighth Amendment does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the crime.[3] 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 the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'"[4]

Moreover, this court has consistently afforded the district court wide discretion in its sentencing decision.[5] Accordingly, we will refrain from interfering with the sentence imposed "[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."[6]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.[7] Additionally, it was within the district court's discretion to impose the

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[3]Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

[4]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 Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

[5]See, e.g., Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[6]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

[7]See NRS 201.230 (providing for sentence of life in prison with the possibility of parole after 10 years for lewdness with a child under the age of 14 years); NRS 200.366(3)(b) (providing for sentence of life in prison with the possibility of parole after 20 years or a definite term of 25 years in prison with the possibility of parole after 5 years for sexual assault of a child under the age of 16 years); NRS 193.330(1)(a)(1) (providing for sentence of 2 to 20 years for attempt to commit a category A felony).

sentences to be served consecutively.[8] We also note that the sentence imposed is consistent with the sentence to which appellant stipulated as part of the plea agreement. Moreover, given the separate instances of proscribed sexual conduct with the minor victim over the course of several years, we conclude that the sentence imposed is not so grossly disproportionate to the offenses as to shock the conscience. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contentions and concluded that they are without merit or are not appropriate for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

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[8]See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).