IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK LYNN JACOBS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36719

FILED

NOV 22 2000

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 jury verdict, of one count of misdemeanor stalking in violation of NRS 200.575. The district court sentenced appellant to serve a jail term of six months, and ordered him to (1) pay a fine of $1,000.00, (2) reimburse the Elko County Public Defender's Fund the sum of $2,500.00, and (3) reimburse the Office of the Attorney General, for the cost of extradition, the sum of $579.96. Appellant was ordered to make payments of $200.00 per month to the Elko Justice Court until all outstanding amounts are satisfied, with the first payment due 45 days after his release from jail. Appellant was given credit for 120 days time served.

First, appellant contends that the sentence imposed by the district court constitutes cruel and unusual punishment

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.[1] See Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). 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.'" 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).

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987). Furthermore, this court 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." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

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. See NRS 200.575; NRS 193.150. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Second, appellant contends the district court erred in ordering appellant to reimburse the Office of the Attorney General the cost of extradition. Appellant argues that the district court never conducted an investigation into his financial status in order to determine whether he had the ability to pay restitution, as required by NRS 179.225(2).[2]

This court has held that "[a]s a general rule, failure to object below bars appellate review; but, we may address plain error or issues of constitutional dimension sua sponte." Emmons v. State, 107 Nev. 53, 60-61, 807 P.2d 718, 723, (1991). Our review of the sentencing hearing transcript reveals that appellant failed to contemporaneously object to the imposition of restitution. Furthermore, appellant failed to demonstrate that the district court either committed plain error or did not follow the requirements of NRS 179.225, or that any error by the district court was of constitutional

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[2]"If

dimension. Therefore, we conclude that appellant's contention lacks merit.

Having considered appellant's contentions and concluded that they are without merit, we affirm the judgment of conviction.

It is so ORDERED.

Rose, C.J.

Young, J.

Becker, J.

cc: Hon. Jack B. Ames, District Judge
Attorney General
Elko County District Attorney
Elko County Public Defender
Elko County Clerk