IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID NELSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36722

FILED

JAN 18 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sexual assault. The district court sentenced appellant to serve a prison term of 10-25 years, ordered him to submit to lifetime supervision commencing upon his release from any term of parole or imprisonment, and ordered him to pay up to $13,500 in restitution. Appellant was given credit for 144 days time served.

Appellant's sole contention is that his sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentence is disproportionate to the crime.[1] We disagree.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, and forbids only an extreme sentence that

[1]Appellant primarily relies on Solem v. Helm, 463 U.S. 277 (1983).

01-01133

is grossly disproportionate to the crime.[2] 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.'"[3]

This court has consistently afforded the district court wide discretion in its sentencing decision.[4] 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."[5]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence, or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.[6] Accordingly, we

---

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

[3]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).

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

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

[6]See NRS 200.366.

conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contention and concluded that it is without merit, we affirm the judgment of conviction.

It is so ORDERED.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk