IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY J. GUARINI,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36871

FILED

JUN 13 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 three counts of lewdness with a child under the age of 14 years and two counts of attempted sexual assault of a child under the age of 14 years. The district court sentenced appellant to serve three consecutive terms of life in prison with the possibility of parole after 10 years for the lewdness counts and two consecutive terms of 32 to 144 months for the attempted sexual assault counts. The court further ordered that the sentences for the attempted sexual assault counts be served concurrently to those for the lewdness counts. Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution because the sentence is disproportionate to the crimes.[1] 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

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

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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] 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."[5]

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.[6] Moreover, based on our review of the record, we conclude that appellant has not demonstrated that the sentence imposed is so grossly disproportionate to the offenses as to shock the conscience.

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[2]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, e.g., 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 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 (providing that sexual assault is a category A felony); NRS 193.330(1)(a)(1) (providing for sentence of 2 to 20 years in prison for an attempt to commit a category A felony).

Accordingly, we 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

ORDER the judgment of conviction AFFIRMED.

Young, J.

Leavitt, J.

Becker, J.

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