IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACOB MILES HUTTMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73173

ORDER OF AFFIRMANCE

Jacob Miles Huttman appeals from a judgment of conviction entered pursuant to a guilty plea of second-degree murder and conspiracy to commit robbery. First Judicial District Court, Carson City; James E. Wilson, Judge.

First, Huttman argues his sentence of 12 to 48 months for the conspiracy to commit robbery offense constituted cruel and unusual punishment. Huttman asserts the sentence is excessive when weighed against his youth, his lack of criminal history, his remorse, and the lenient sentences received by codefendants. 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) (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) (plurality opinion) (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).

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At the sentencing hearing, the district court noted Huttman's youth and lack of criminal history, but concluded the appropriate sentence was a term of 12 to 48 months for the conspiracy to commit robbery offense, to be served concurrently with a 10-to-25-year term for the second-degree murder offense. The sentence imposed for the conspiracy to commit robbery offense is within the parameters provided by the relevant statute, *see* NRS 199.480(1)(a), and Huttman does not allege that statute is unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment.

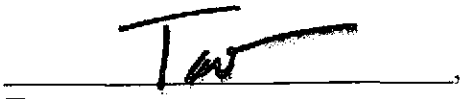
Second, Huttman argues the district court abused its discretion at sentencing. Huttman asserts the sentence was improperly based on the State's assertion that Huttman chose the place and time of the robbery, when two of the codefendants actually formulated the robbery plan. We review a district court's sentencing decision for an abuse of discretion. *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).

The record reveals Huttman conspired with his codefendants to rob the victim of his marijuana and a codefendant killed the victim during the commission of the robbery. At the sentencing hearing, the district court found Huttman "was a participant in the planning and the carrying out of the crime." The record supports the district court's findings in this regard and Huttman fails to demonstrate the district court relied upon impalpable or highly suspect evidence when imposing sentencing. In addition, the

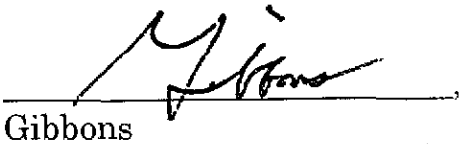
sentence imposed falls within the parameters provided by the relevant statutes. *See* NRS 176.035(1); NRS 199.480(1)(a); NRS 200.030(5)(b). Based on the record before this court, we conclude the district court did not abuse its discretion when it imposed sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Silver



_____, J.
Tao



_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk