IN THE SUPREME COURT OF THE STATE OF NEVADA

VIRGIL STEPHENS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37634

FILED

MAR 29 2002

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 two counts of lewdness with a minor under the age of fourteen (14) years. The district court sentenced appellant to serve two concurrent terms of life in prison with the possibility of parole after 10 years.

Appellant first contends that his guilty plea was invalid because he was told that he was ineligible for probation, when in fact, he was eligible for probation. 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] 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] Accordingly, we decline to consider the merits of appellant's challenge to the validity of his guilty plea.

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

[2]Id.

02-05626

Appellant also contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions 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]

This court has consistently afforded the district court wide discretion in its sentencing decision.[5] 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."[6]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant

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

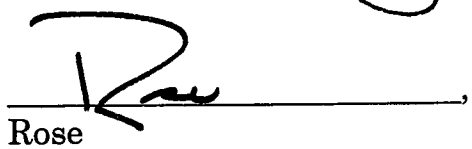
[6]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.[7] Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contentions and concluded that they are either inappropriate for review in a direct appeal or without merit, we

ORDER the judgment of conviction AFFIRMED.[8]

_____, J.
Shearing



_____, J.
Rose

_____, J.
Becker

cc: Hon. David A. Huff, District Judge
Law Office of Kenneth V. Ward
Attorney General/Carson City
Lyon County District Attorney
Lyon County Clerk

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[7]See NRS 201.230.

[8]We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.