

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA DAVIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37675

**FILED**

**JUL 31 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 one count of unlawful use of identifying information of another. The district court sentenced appellant to serve a prison term of 43 to 192 months and ordered appellant to pay \$1,211.50 in restitution.

Appellant 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.<sup>1</sup> 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.<sup>2</sup> 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."<sup>3</sup>

---

<sup>1</sup>Appellant primarily relies on Solem v. Helm, 463 U.S. 277 (1983).

<sup>2</sup>Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

<sup>3</sup>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.<sup>4</sup> 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."<sup>5</sup>

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.<sup>6</sup> 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.  
Young  
Leavitt, J.  
Leavitt  
Becker, J.  
Becker

cc: Hon. William A. Maddox, District Judge  
Attorney General  
Carson City District Attorney  
State Public Defender  
Carson City Clerk

<sup>4</sup>See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

<sup>5</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

<sup>6</sup>See 205.463(1)(b) (providing for a prison sentence of 1 to 20 years).