

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATHANIEL TAVERS POSTELLE, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82755-COA

FILED

NOV 12 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Nathaniel Tavers Postelle, III, appeals from a judgment of conviction entered pursuant to a guilty plea of driving under the influence resulting in death. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Postelle argues the district court abused its discretion by imposing a cruel and unusual sentence. Postelle contends the district court disregarded the mitigating evidence that warranted a shorter sentence.

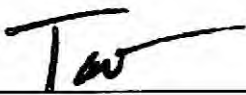
The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will not interfere with the sentence imposed by the district court “[s]o long as the record does not demonstrate prejudice resulting from consideration of information 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). 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).

At the sentencing hearing, the district court listened to the arguments of the parties and the victim impact statements. The district court also noted it reviewed Postelle's sentencing memorandum. The district court decided to impose a sentence of 96 to 240 months, which is within the parameters provided by the relevant statute, see NRS 484C.430(1), and Postelle does not allege that statute is unconstitutional. Postelle also does not allege the district court relied on impalpable or highly suspect evidence. We have considered the sentence and the crime, and we conclude the sentence imposed is not grossly disproportionate to the crime, it does not constitute cruel and unusual punishment, and the district court did not abuse its discretion when imposing sentence. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Las Vegas Defense Group, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk