

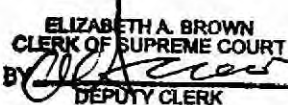
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRANDON ALLEN BEST,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83495-COA

FILED

JUN 23 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Brandon Allen Best appeals from a judgment of conviction, entered pursuant to a guilty plea, of battery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Best argues the district court abused its discretion by imposing an unduly and unfairly excessive sentence that constitutes cruel and unusual punishment under the United States and Nevada constitutions. In particular, Best argues his conduct did not warrant the maximum sentence because he suffers from severe mental illness, he was not on his medication at the time of the offense, and he had recently suffered head trauma.


The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with the sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[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); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171

(1998). 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).

The sentence of 4 to 10 years in prison is within the parameters provided by the relevant statute, see NRS 200.481(2)(e)(1), and Best does not allege that the statute is unconstitutional. Best 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 by imposing the sentence. Therefore, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Barry L. Breslow, District Judge  
Oldenburg Law Office  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk