

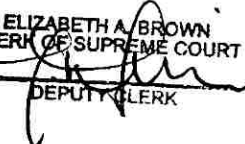
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ASHLEIGH NICOLE BACON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84041-COA

FILED

NOV 23 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ashleigh Nicole Bacon appeals from a judgment of conviction, entered pursuant to a guilty plea, of driving under the influence resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Bacon argues that the district court abused its discretion in imposing its sentence because it ignored mitigating evidence, punished her for actions unrelated to the crime, and considered information or accusations founded on facts supported only by impalpable or highly suspect evidence. Bacon also argues that her sentence constitutes cruel and unusual punishment.

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 a 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 84 to 240 months in prison is within the parameters provided by the relevant statute, see NRS 484C.430(1), and Bacon does not allege that this statute is unconstitutional. In addition, Bacon presented mitigating information in a sentencing memorandum, which the district court stated it had thoroughly reviewed. There is no indication in the record that the district court ignored mitigating information, and Bacon did not identify what palpable or highly suspect evidence the district court relied upon in imposing its sentence. Moreover, Bacon did not demonstrate that the district court punished her for actions unrelated to the crime by improperly considering her prior criminal history and probation violations. See NRS 176.015(6) (“This section does not restrict the authority of the court to consider any reliable and relevant evidence at the time of sentencing.”); see also *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996) (“Possession of the fullest information possible

concerning a defendant's life and characteristics is essential to the sentencing judge's task of determining the type and extent of punishment.")

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: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 17
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk