

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNELL COSEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38017

FILED

AUG 08 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to serve a prison term of 12 to 120 months and ordered him to pay \$2,626.28 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.¹ 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

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

crime.² 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.'"³

This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ 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."⁵

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁶ Accordingly, we

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

³Blume 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).

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

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

⁶See NRS 205.060(2).

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. Sally L. Loehrer, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk