IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON INMAN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38072

FILED

AUG 24 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to possess a controlled substance. The district court sentenced appellant to serve 16 to 60 months in prison.

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the United States Constitution 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 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

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

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

01-14370

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] Accordingly, we 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 statutes are unconstitutional. Further, we note that the relevant statutes provide for a sentence of one to five years in prison.[6] The sentence imposed was within those parameters. Moreover, given the circumstances of this case,[7] we conclude that the sentence imposed is not so grossly disproportionate to the offense as

---

[3]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).

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

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

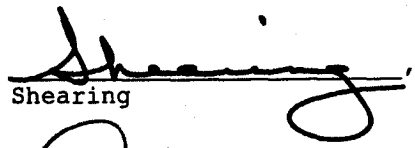
[6]See NRS 453.401(1)(a); NRS 193.130(2)(c).

[7]Appellant, an inmate at the state prison, conspired with his brother to smuggle controlled substances into the prison. Prison officials intercepted a letter from appellant's brother to appellant that had methamphetamine and LSD concealed under a postage stamp on the envelope.

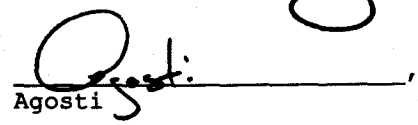
to shock the conscience. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contention and concluded that it is without merit, we

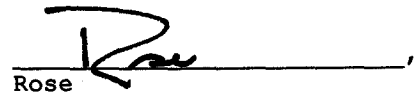
ORDER the judgment of conviction AFFIRMED.



Shearing, J.



Agosti, J.



Rose, J.

cc: Hon. William A. Maddox, District Judge
Attorney General
Carson City District Attorney
Robert B. Walker, Jr.
Carson City Clerk