


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRAD ALDEN HAINO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88150-COA

FILED

FEB 25 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Brad Alden Haino appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of robbery. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

Haino argues the district court abused its discretion and imposed a cruel and unusual sentence by ordering him to serve a harsher sentence than that received by his codefendant and a sentence disproportionate to the gravity of the crimes. 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).

The district court imposed concurrent 36-to-96-month prison sentences for the two robbery counts. Those sentences are within the parameters provided by the relevant statute. *See* NRS 200.380(2). And

Haino does not allege that the district court relied on impalpable or highly suspect evidence.


Instead, Haino requests this court to apply the factors listed in *Solem v. Helm*, 463 U.S. 277 (1983), to find that his sentence amounts to cruel and unusual punishment. 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).

In *Solem*, the United States Supreme Court outlined three factors to consider in determining whether a sentence is disproportionate to the offense: “[(1)] the gravity of the offense and the harshness of the penalty; [(2)] the sentences imposed on other criminals in the same jurisdiction; and [(3)] the sentences imposed for commission of the same crime in other jurisdictions.” 463 U.S. at 292. The second and third factors are only relevant, however, “in the rare case in which a threshold comparison of the crime committed and the sentence imposed leads to an inference of gross disproportionality.” *Harmelin*, 501 U.S. at 1005.

Haino does not allege that his sentencing statutes are unconstitutional. And the crimes Haino was convicted of were crimes involving “force or violence or fear of injury.” NRS 200.380(1) (defining robbery); see also NRS 202.876(5). Given the gravity of the offenses, Haino’s

concurrent sentences of 36 to 96 months do not lead to an inference of gross disproportionality, and thus, the second and third *Solem* factors do not apply. *See also Sims v. State*, 107 Nev. 438, 439, 814 P.2d 63, 64 (1991) (noting the majority's observation in *Solem* that "a reviewing court rarely will be required to engage in extended analysis to determine that a sentence is not constitutionally disproportionate" given the substantial deference that is afforded sentencing courts and legislatures and declining to apply a *Solem* analysis in addressing an Eighth Amendment claim (quoting *Solem*, 463 U.S. at 290 n.16)). Therefore, we conclude the sentence does not constitute cruel and unusual punishment and the district court did not abuse its discretion when imposing Haino's sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Bitu Yeager, District Judge
Law Office of Rachael E. Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk