

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO RAMOS,

No. 38466

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 15 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance for the purpose of sale. The district court sentenced appellant Antonio Ramos to serve a prison term of 12 to 32 months.

Ramos was convicted of possession of a controlled substance for transporting approximately 9 pounds of marijuana near Interstate 80 in Winnemucca, Nevada. Ramos contends that the sentence imposed by the district court was too harsh and constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentence is disproportionate to the crime.¹ Specifically, Ramos contends that the district court should have granted him probation because: (1) he has no prior criminal history; (2) he has a stable employment record; (3) he accepted responsibility for his actions and attempted to cooperate with law enforcement; and (4) he was not a drug dealer, but merely a "mule" who was transporting drugs because he needed money to support his family. We conclude that Ramos' contention lacks merit.

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

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

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

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punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."³

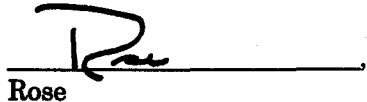
This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."⁵


In the instant case, Ramos 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 sentence imposed was within the parameters provided by the relevant statutes.⁶ Accordingly, we conclude that the sentence imposed is not too harsh and does not constitute cruel and unusual punishment.

Having considered Ramos' contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

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 453.337; NRS 193.130.

cc: Hon. Richard Wagner, District Judge
Attorney General/Carson City
Humboldt County District Attorney
State Public Defender
Humboldt County Clerk