

IN THE SUPREME COURT OF THE STATE OF NEVADA

PETER COBO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38551

FILED

JUL 10 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of three counts of securities fraud. The district court sentenced appellant to three consecutive prison terms of 24 to 60 months. The district court further ordered appellant to pay restitution in the amount of \$170,420.00.

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 crime.² Regardless of its severity, a

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

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

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 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 does not constitute cruel and unusual punishment.

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).

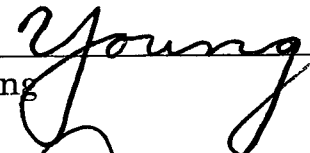
⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

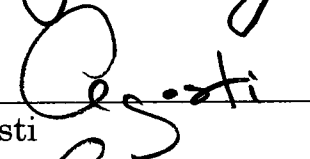
⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

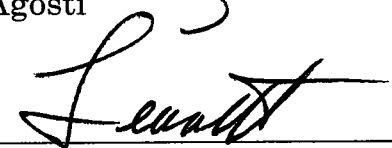
⁶See NRS 90.570; NRS 90.650(1); NRS 193.130(2)(c).

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Sally L. Loehrer, District Judge
Clark County Public Defender
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Clark County Clerk