IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT MICHAEL TYZBIR, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 38905
SCOTT MICHAEL TYZBIR, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 38906

FILED

MAR 14 2002

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

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas. In Docket No. 38905, appellant was convicted of one count of second offense possession of a controlled substance. The district court sentenced appellant to a prison term of 12 to 34 months. In Docket No. 38906, appellant was convicted of failure to stop on the signal of a peace officer. The district court sentenced appellant to a prison term of 12 to 48 months. The district court further ordered that the sentence in Docket No. 38905 run consecutive to the sentence in Docket No. 38906.

Appellant contends that the sentences constitute cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentences are disproportionate to the crime.[1] We disagree.

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

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 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 cases, 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 sentences imposed were within the parameters provided by the relevant statutes.[6]

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

[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).

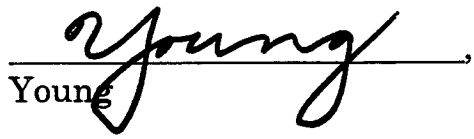
[5]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

[6]See NRS 453.336(2)(a); NRS 193.130(2)(e); NRS 176A.100(1)(b); NRS 484.348(3)(b).

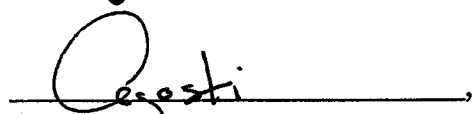
Accordingly, we conclude that the sentences imposed do not constitute cruel and unusual punishment.

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

ORDER the judgment of conviction AFFIRMED.



_____, J.
Young



_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. William A. Maddox, District Judge
Attorney General/Carson City
Carson City District Attorney
State Public Defender/Carson City
Carson City Clerk