IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM E. WORKMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39352

FILED

JUN 26 2002

J. Richards

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of failure to complete annual verification by a sex offender. The district court sentenced appellant to a prison term of 12 to 48 months.[1]

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

[1]The district court entered the judgment of conviction on April 25, 2001. A notice of appeal was not timely filed in the district court. Appellant did, however, write a letter to the district court expressing his desire to appeal within the thirty-day appeal period. The letter contains all the information required of a notice of appeal. See NRAP 3(c). We conclude that the letter constitutes a notice of appeal. Because the letter was placed in the district court file without being file stamped, there is no way to tell when it was received in the district court clerk's office. This court has previously held that where "it cannot be determined whether appellant's notice of appeal was received into the custody of the clerk of the district court in a timely fashion, we conclude that it would be fair to resolve the ambiguity in the record in appellant's favor." Huebner v. State, 107 Nev. 328, 332, 810 P.2d 1209, 1212 (1991). Accordingly, we conclude that we have jurisdiction to entertain this appeal.

constitutions because the sentence is disproportionate to the crime.[2] 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.[3] 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.'"[4]

This court has consistently afforded the district court wide discretion in its sentencing decision.[5] 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."[6]

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

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

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

[4]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).

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

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

was within the parameters provided by the relevant statutes.[7] 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.

_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. Jerry V. Sullivan, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk

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[7]See NRS 179D.480; NRS 179D.550; NRS 193.130(2)(d).