IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KEITH LAWHORN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39564

FILED

AUG 23 2002

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from two judgments of conviction, pursuant to guilty pleas, of two counts of burglary and one count of domestic battery, in two separate district court cases. The district court sentenced appellant Brian Keith Lawhorn to serve concurrent prison terms of 72-180 and 36-120 months for the burglary counts. For the domestic battery count, his third conviction of that offense, he was sentenced to a concurrent prison term of 24-60 months. These three terms were ordered to be served consecutively to a prison term Lawhorn was already serving in another case.

Lawhorn contends first 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. Lawhorn also contends that the district court abused its discretion by ordering him to serve these sentences consecutively to the term he was already serving, rather than concurrently. We conclude that these contentions lack 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.[1] 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.'"[2]

This court has consistently afforded the district court wide discretion in its sentencing decision.[3] 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."[4]

In the instant case, Lawhorn 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 are within the parameters provided by the relevant statutes.[5] Moreover, it is within the district court's discretion to impose consecutive

---

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

[2]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).

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

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

[5]See NRS 205.060(2), 200.485(1)(c).

sentences.[6] It is also clear from the record that Lawhorn had an extensive prior criminal record.

Having considered Lawhorn's contentions and concluding they are without merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. Brent T. Adams, District Judge
Dennis A. Cameron
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

---

[6]See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).