IN THE SUPREME COURT OF THE STATE OF NEVADA

ZACHARY LANE HAROLD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39992

FILED

OCT 16 2002

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count each of burglary and open and gross lewdness. The district court sentenced appellant Zachary Lane Harold to serve two consecutive prison terms of 48-120 months and 19-48 months; he was given credit for 389 days time served.

Harold's sole contention is that the district court abused its discretion at sentencing because the sentence is excessive and constitutes cruel and unusual punishment.[1] Harold argues that the sentence imposed is disproportionate to the crime. We conclude that Harold's contention is without merit.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the

[1]Harold relies on Solem v. Helm, 463 U.S. 277 (1983), for support.

crime.[2] Further, this court has consistently afforded the district court wide discretion in its sentencing decision,[3] and 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] A sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.[5]

In the instant case, Harold 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

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

[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).

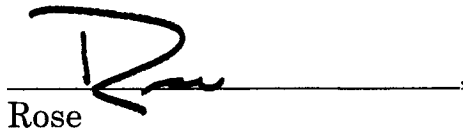
[5]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

[6]See NRS 205.060(2); NRS 201.210(1)(b); NRS 193.130(2)(d).

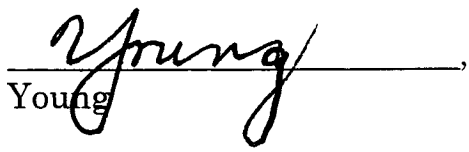
disproportionate to the crime and does not constitute cruel and unusual punishment.[7]

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

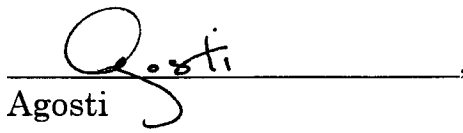
ORDER the judgment of conviction AFFIRMED.[8]



_____, J.
Rose



_____, J.
Young



_____, J.
Agosti

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[7]See Schmidt v. State, 94 Nev. 665, 668, 584 P.2d 695, 697 (1978).

[8]Although the parties have submitted documentation sufficient for the disposition of this appeal, we note that neither party has complied with the requirements of the Nevada Rules of Appellate Procedure. See NRAP 3C(e)(2); NRAP 30(a). Specifically, an appendix was not filed by either appellant or respondent. The parties are cautioned that failure to comply with the NRAP in the future may result in the imposition of sanctions by this court. NRAP 3C(n).

cc: Hon. William A. Maddox, District Judge
Robert B. Walker
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk