IN THE SUPREME COURT OF THE STATE OF NEVADA

JOEL DELA CRUZ-JORDON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40005

FILED

JUN 06 2003

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY [signature]
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to an Alford plea,[1] of one count each of sexual assault of a minor under 16 years of age and lewdness with a child under 14 years of age. The district court sentenced appellant to serve consecutive prison terms of 5-20 years for the count of sexual assault and life with the possibility of parole after 10 years for the count of lewdness.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is excessive and constitutes cruel and unusual punishment in violation of both the United States and Nevada constitutions.[2] Appellant argues that the sentence imposed is disproportionate to the crimes; the extent of appellant's argument, without explanation or analysis, is that "the circumstances in this case do not warrant such a harsh prison sentence." We conclude that appellant's contention is without merit.

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[1]North Carolina v. Alford, 400 U.S. 25 (1970).

[2]See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6. Appellant primarily relies on Solem v. Helm, 463 U.S. 277 (1983), for support.

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 crime.[3] Further, this court has consistently afforded the district court wide discretion in its sentencing decision,[4] 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."[5] 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.[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. Appellant concedes that the sentence imposed was within the parameters provided by the relevant statutes.[7] We note that appellant was originally charged by criminal complaint with eight counts of sexual assault with a minor under 14 years of age and two

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

[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).

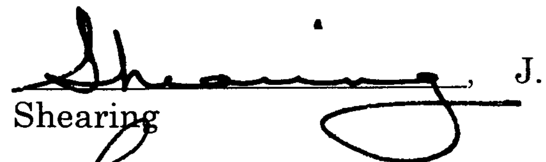
[6]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

[7]See NRS 200.364; NRS 200.366(3)(b)(2); NRS 201.230.

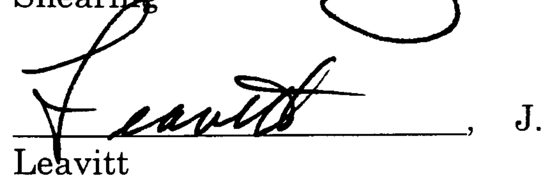
counts of attempted sexual assault with a minor under 14 years of age for offenses committed upon his ten-year-old stepdaughter. Further, the sentence imposed for the sexual assault count was significantly less than the potential maximum sentence allowed. Accordingly, we conclude that the sentence imposed is not disproportionate to the crimes and does not constitute cruel and unusual punishment under the federal or state constitution.[8]

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

ORDER the judgment of conviction AFFIRMED.



_____________________, J.
Shearing



_____________________, J.
Leavitt

_____________________, J.
Becker

cc: Hon. Jackie Glass, District Judge
Clark County Public Defender
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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