IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT D. ARNOLD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40277

FILED

JUN 12 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 a guilty plea, of first degree murder. The district court sentenced appellant to imprisonment for life without the possibility of parole. The court further ordered appellant to pay administrative assessment, legal representation and DNA testing fees.

Appellant's sole contention is that the district court abused its discretion at sentencing by imposing a sentence that did not provide for the possibility of parole. Citing Justice Rose's dissent in Tanksley v. State,[1] appellant asks this court to review the sentence to see that justice was done. In support of his argument for leniency, appellant relies on evidence showing that he was twenty-three years old at the time of the murder; he did not present a high risk to re-offend; he lacked a significant criminal history; as a child, he had been the victim of sexual and other abuse, neglect and family instability; he only had a seventh-grade level of education; and, he was remorseful.

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[1]113 Nev. 844, 944 P.2d 240 (1997).

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This court has consistently afforded the district court wide discretion in its sentencing decision.[2] Accordingly, we 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."[3] Moreover, 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]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Although the district court had discretion to impose a sentence which included the possibility of parole, there is nothing in the record to suggest that the district court abused its discretion in refusing to provide appellant the opportunity for parole. The offense in this case was particularly horrendous: appellant killed his six-year-old stepdaughter, Kristen C., by abusing her so severely that she suffered mortal injuries, and evidence presented at sentencing showed that appellant had a history of physically abusing Kristen C. Furthermore, the sentence imposed is within the parameters provided by the relevant

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

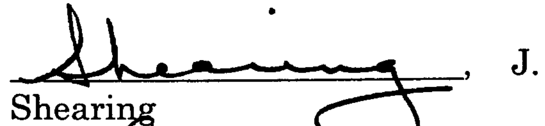
[3]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

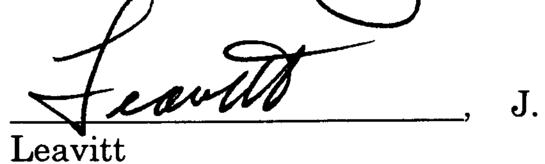
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

statute.[5] The sentence does not appear to be so grossly disproportionate to the offense as to shock the conscience. Accordingly, the sentence does not constitute cruel and unusual punishment. Under the circumstances, we conclude that the district court did not abuse its discretion in sentencing appellant to a prison term of life without the possibility of parole.

Having considered appellant's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.


_____________________, J.
Shearing


_____________________, J.
Leavitt

_____________________, J.
Becker

cc: Hon. Jerome Polaha, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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[5]See NRS 200.030(4).