

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT T. WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41662

FILED

DEC 23 2003

ORDER OF AFFIRMANCE

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

This is an appeal from a district court order revoking appellant Robert T. White's probation and amending the judgment of conviction.

On June 20, 2002, White was convicted, pursuant to a guilty plea, of one count of possession of stolen property. The district court sentenced White to serve a prison term of 24 to 60 months and then suspended execution of the sentence, placing White on probation for a time period not to exceed 3 years.

On June 10, 2003, the district court entered an order revoking White's probation and amending the judgment of conviction. In the order, the district court revoked White's probation and reduced White's sentence, imposing a prison term of 17 to 48 months. White filed the instant appeal.

White contends that the modified sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the sentence is disproportionate to the crime.¹ We disagree.

¹White primarily relies on Solem v. Helm, 463 U.S. 277 (1983).

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.² 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."³

This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ 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."⁵

In the instant case, White 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

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

³Blume 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).

⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

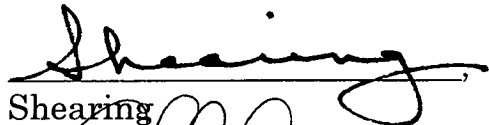
⁶See NRS 205.275(2)(b); NRS 193.130(2)(c) (providing for a prison term of 1 to 5 years).

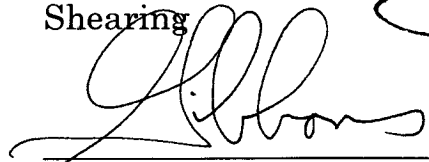
Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

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