

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN BARRY TAYLOR A/K/A
STEPHEN B. TAYLOR, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41890

FILED

NOV 07 2003

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of sale of a controlled substance. The district court sentenced appellant Stephen Barry Taylor, Jr. to serve two concurrent prison terms of 24 to 60 months.

Taylor contends 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.¹ We disagree.

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

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

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

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, Taylor does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁶ Finally, we conclude the sentence is not so unreasonably disproportionate to the crime as to shock the conscience. Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

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 453.321(2)(a).

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

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