

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER KIRK ROBINSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42115

**FILED**

APR 05 2004

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 burglary (count I), conspiracy to commit murder (count II), and two counts of attempted murder with the use of a deadly weapon (counts III & IV). The district court sentenced appellant Christopher Kirk Robinson to serve a prison term of 24 to 60 months for count I, a concurrent prison term of 36 to 90 months for count II, and four consecutive prison terms of 48 to 120 months for counts III and IV.

Robinson 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 seriousness of the offense. Robinson also contends that the district court abused its discretion at sentencing by imposing consecutive sentences on counts III and IV. 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.<sup>1</sup> Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual

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<sup>1</sup>Harmelin 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."<sup>2</sup>

This court has consistently afforded the district court wide discretion in its sentencing decision.<sup>3</sup> 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."<sup>4</sup>

In the instant case, Robinson 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,<sup>5</sup> and that the district court has discretion to impose consecutive sentences.<sup>6</sup> Finally, we conclude that the sentence imposed was not so unreasonably

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<sup>2</sup>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).

<sup>3</sup>See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

<sup>4</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).


<sup>5</sup>See NRS 205.060(2); NRS 199.480(1)(b); NRS 200.030(4); NRS 193.330(1)(a)(1); NRS 193.165.

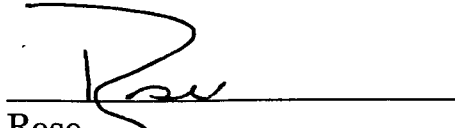
<sup>6</sup>NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

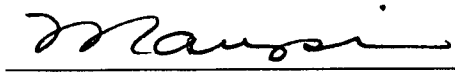
disproportionate to the crime as to shock the conscience.<sup>7</sup> Accordingly, we conclude that the sentence does not constitute cruel and unusual punishment and that the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.

 C.J.  
Shearing

 J.  
Rose

 J.  
Maupin

cc: Hon. Donald M. Mosley, District Judge  
Michael P. Printy  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>7</sup>Robinson was originally charged with one count of burglary, two counts of conspiracy to murder, two counts of attempted murder with the use of a deadly weapon, one count of mayhem, and one count of battery with use of a deadly weapon causing substantial bodily harm for breaking into a residence and stabbing two victims.