

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRETE DEE HESS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48070

FILED

APR 06 2007

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of burglary. Third Judicial District Court, Churchill County; Wayne A. Pederson, Judge. The district court sentenced appellant to consecutive prison terms of 48 to 120 months.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh and disproportionate. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ 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."² Moreover, regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless

¹See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

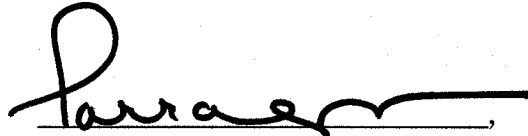
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

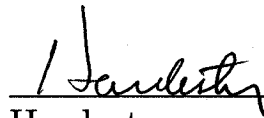
the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."³


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. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁴

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Third Judicial District Court Dept. 2, District Judge
Churchill County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Churchill County District Attorney
Churchill County Clerk

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 NRS 205.060(2).