IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIA A. SOUKOP,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35707

FILED

APR 26 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted theft. The district court sentenced appellant to twelve (12) to forty-eight (48) months in the Nevada State Prison.

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

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v.

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

State, 103 Nev. 659, 747 P.2d 1376 (1987). 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 . . . ." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

In the instant case, appellant 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. See NRS 205.0835(3); NRS 193.330(1)(a)(4); NRS 193.130(2)(d). Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Appellant further contends that the district court gave her erroneous information about her appeal rights. Specifically, appellant argues that the district court erroneously informed her that she could raise, in a direct appeal, a challenge to the validity of her guilty plea and the effectiveness of her counsel. Appellant also argues that the district court failed to advise her that there are other issues that can be raised on direct appeal from a judgment of conviction entered pursuant to a guilty plea. Even assuming that the district court furnished appellant with inaccurate information regarding her appellate rights, appellant has failed to allege how she has been prejudiced by the district court's action. Appellant brought the instant appeal with the assistance of counsel and presumably has raised any issues which she is entitled to raise. If appellant wishes to challenge the validity of her guilty plea or the effectiveness of her counsel, she may do so by initiating a post-conviction proceeding in the district court. See, e.g., Bryant v. State, 102 Nev. 268, 272,

721 P.2d 364, 367-68 (1986); Gibbons v. State, 97 Nev. 520, 523, 634 P.2d 1214, 1216 (1981).

Having considered appellant's contentions and concluded that they are without merit, we

ORDER this appeal dismissed.

Maupin, J.

Shearing, J.

Becker, J.

cc: Hon. Michael E. Fondi, District Judge
Attorney General
Storey County District Attorney
State Public Defender
Storey County Clerk