IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WARREN CLEDITH SNAPP, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75833-COA

ORDER OF AFFIRMANCE

Warren Cledith Snapp, Jr., appeals from a judgment of conviction entered pursuant to a guilty plea of battery with substantial bodily harm and battery constituting domestic violence. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

First, Snapp argues the district court abused its discretion at sentencing by declining his request for probation. Snapp contends he should have been placed on probation because he took responsibility for his actions. We review a district court's sentencing decision for an abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). We will not interfere with the sentence imposed by the district court "[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).

During the sentencing hearing, the district court heard Snapp's statement in allocution and the victim impact statement. The district court concluded concurrent terms totaling 12 to 48 months in prison was the appropriate sentence, which was within the parameters of the relevant statutes. *See* NRS 193.130(2)(c); NRS 200.481(2)(b); NRS 200.485(1)(a).

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Snapp does not allege that the district court relied on impalpable or highly suspect evidence, and the district court's decision to decline to place him on probation was within its discretion. *See* NRS 176A.100(1)(c). Considering the record before this court, we conclude Snapp fails to demonstrate the district court abused its discretion when imposing sentence.

Second, Snapp argues his sentence constitutes cruel and unusual punishment. Regardless of its severity, "[a] sentence 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 Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

The sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(c); NRS 200.481(2)(b); NRS 200.485(1)(a), and Snapp does not allege that those statutes are unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Douglas, A.C.J.

Tao, J.

Gibbons, J.

cc: Hon. Valerie Adair, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk