IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN PENN GEIL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83831-COA

FILED

AUG 10 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Penn Geil appeals from a judgment of conviction, entered pursuant to a guilty plea, of obtaining and using personal identifying information of another person. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

Geil argues his sentence amounts to cruel and unusual punishment because the court was irritated, it relied on impalpable or highly suspect evidence, and the sentence was grossly unfair based on the facts of the case. Specifically, Geil contends the court was irritated about lack of preparedness in prior cases and the fact that Geil's counsel asked for the court's indulgence to answer Geil's question about the presentence investigation report. Geil also contends the court improperly considered the victim impact statement.

The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes "[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); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). "[R]emarks of a judge made in the context of a court proceeding are not considered indicative of improper bias or prejudice unless they show the judge has closed his or her mind to the presentation of all the evidence." *Id.*

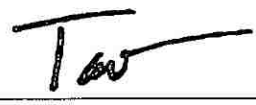
Regardless of its severity, "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" *Blume v. State*, 112 Nev. 472, 475, 915 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).

Geil's sentence of 18 to 60 months in prison is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(c); NRS 205.463(2), and Geil does not allege that those statutes are unconstitutional. Geil also does not allege that the judge's alleged irritation closed his mind to the presentation of all the evidence. Finally, the court stated that it did not read and would not consider the victim impact statement, and Geil fails to demonstrate how the court's lack of review constitutes consideration of impalpable or highly suspect evidence. Having considered the sentence and the crime, we conclude the sentence imposed

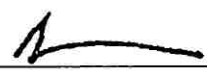
is not grossly disproportionate to the crime, it does not constitute cruel and unusual punishment, and accordingly, the district court did not abuse its discretion when imposing Geil's sentence. Therefore, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons



_____, J.
Tao



_____, J.
Bulla

cc: Hon. Leon Aberasturi, District Judge
Orrin Johnson Law
Attorney General/Carson City
Lyon County District Attorney
Third District Court Clerk