

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY JAMES VANDERLIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88149-COA

FILED

JUL 30 2025

ELIZABETH A. BRAY
CLERK OF SUPREME COURT

BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Timothy James Vanderlin appeals from a judgment of conviction, entered pursuant to a jury verdict, of five counts of burglary and three counts of felony obtaining money or property by false pretenses. Second Judicial District Court, Washoe County; Tammy Riggs, Judge.

Vanderlin argues the district court abused its discretion at sentencing because it focused on the impact his offense had on the property owners and imposed a sentence that violated the Eighth Amendment's prohibition against cruel and unusual punishment. Citing Justice Rose's dissent in *Tanksley v. State*, 113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting), he insists that appellate courts should afford lower courts less deference when reviewing sentencing decisions.


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). 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 sentencing court imposed prison sentences of 2 to 5 years for each burglary count, 12 to 30 months for two counts of obtaining money by false pretenses, and 19 to 48 months for the remaining count of obtaining money by false pretenses. Vanderlin’s sentences are within the parameters provided by the relevant statutes, see 2013 Nev. Stat., ch. 488, § 1 at 2987-88; 2011 Nev. Stat., ch. 41, § 25 at 168-69, and Vanderlin does not allege that those statutes are unconstitutional. Although Vanderlin asserts the sentencing court should not have relied heavily on the impact of his conduct on the property owners, he does not allege that the sentencing court relied on impalpable or highly suspect evidence. The sentencing court indeed considered the “extraordinary cruelty” of stealing from people who trusted Vanderlin at such a vulnerable time in their lives. This evidence not only reflected upon the impact the crimes had on the victims but also on Vanderlin’s character. See *Wilson v. State*, 105 Nev. 110, 115, 771 P.2d 583, 586 (1989) (“When, as in the instant case, judges have sentencing discretion, possession of the fullest information possible regarding the defendant’s life and characteristics is essential to the selection of an appropriate sentence.”). The sentencing court also based its decision on Vanderlin’s

criminal history, which included two prior felony convictions. Additionally, we decline Vanderlin's invitation to more stringently review sentencing decisions. We have considered the sentence and the crime, and 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.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Tammy Riggs, District Judge
Oldenburg Law Office
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk