

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN LEWIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43932

FILED

JUN 02 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of conspiracy to commit robbery with the use of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant Kevin Lewis to serve a prison term of 28 to 72 months.

Lewis contends that the district court abused its discretion by imposing an excessive sentence. Specifically, Lewis argues that the sentence imposed in this case should have been ordered to run concurrently to the sentence he was serving in another criminal case. Citing to the dissent in Tanksley v. State,¹ Lewis asks this court to review the sentence imposed to see that justice was done. We conclude that Lewis's contention lacks merit.

This court has consistently afforded the district court wide discretion in its sentencing decision and will refrain from interfering with the sentence imposed “[s]o long as the record does not demonstrate

¹113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.”² Regardless of its severity, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.³

In the instant case, Lewis does not allege that the district court relied on impalpable or highly suspect evidence or that the sentencing statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁴ Moreover, it is within the district court's discretion to impose consecutive sentences.⁵ Finally, the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. In imposing sentence, the district court noted that Lewis "had a very lengthy and significant criminal history." Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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


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)).

⁴See NRS 199.480(1)(a) (providing for a prison term of 1 to 6 years).

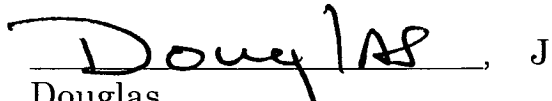
⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 303, 429 P.2d 549, 552 (1967).

Having considered Lewis's contention and concluded that it lacks merit, we

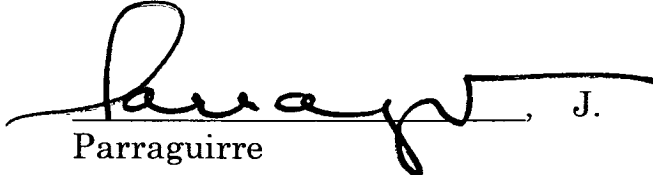
ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Douglas

 J.

Parraguirre

cc: Hon. Janet J. Berry, District Judge
John P. Calvert
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk