IN THE SUPREME COURT OF THE STATE OF NEVADA

CHANCELOR KAREEME WELCH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44368

FILED

JUN 13 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance with the intent to sell. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge. The district court sentenced appellant Chancelor Kareeme Welch to serve a prison term of 12-30 months to run concurrently with the sentence imposed in his federal case.

Welch's sole contention on appeal is that the district court abused its discretion at sentencing by imposing a sentence which constitutes cruel and unusual punishment in violation of the Nevada Constitution.[1] Welch implies that the sentence was either excessive or disproportionate to the crime because he was "merely possessing a small amount of illegal drugs." We disagree with Welch's contention.

The Eighth Amendment of the United States Constitution does not require strict proportionality between crime and sentence, but forbids only an extreme sentence that is grossly disproportionate to the

[1]See Nev. Const. art. 1, § 6.

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crime.[2] This court has consistently afforded the district court wide discretion in its sentencing decision.[3] The district court's discretion, however, is not limitless.[4] Nevertheless, we 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."[5] Despite 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.[6]

In the instant case, Welch does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. In fact, the sentence imposed is not only within the parameters provided by the relevant statutes,[7] but it also: (1) is considerably less than the maximum allowed under the statutes; (2) does not include the imposition of a fine; (3) was ordered to run concurrently with the sentence in an unrelated case; and (4) is the sentence that both parties stipulated to as part of the plea negotiations.

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[2]Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion).

[3]Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[4]Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000).

[5]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

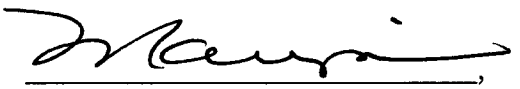
[6]Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

[7]NRS 453.337(2)(a); NRS 193.130(2)(d) (category D felony punishable by a prison term of 1-4 years).

Accordingly, we conclude that the district court did not abuse its discretion at sentencing and that the sentence imposed does not constitute cruel and unusual punishment.

Having considered Welch's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.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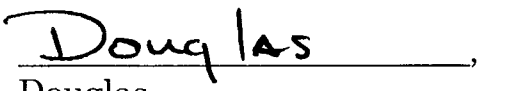
Maupin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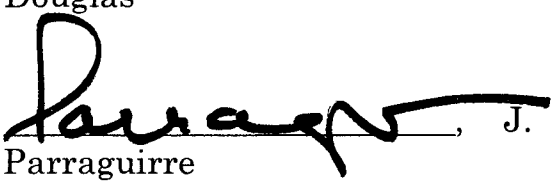
, J.
Parraguirre

cc: Hon. John S. McGroarty, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk