

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH FRANCIS WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44440

FILED

MAY 04 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of failure to register as a sex offender. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant to a prison term of 12 to 34 months. The district court further ordered appellant to pay a fine of \$1,000.00.

Appellant's sole contention is that the district court abused its discretion by refusing to grant probation. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ This court 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."² Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional,

¹See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


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

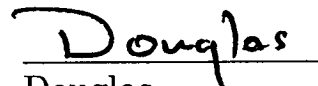
and the sentence is not so unreasonably disproportionate as to shock the conscience.³

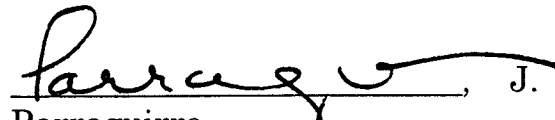
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.⁴ Moreover, the granting of probation is discretionary.⁵

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

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 179D.550; NRS 193.130(2)(d).

⁵See NRS 176A.100(1)(c).

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk